

Exhibit 5

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21 purpose and may not be filed with any court.

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1 P R O C E E D I N G S

2 (Oath stipulation read and agreed by counsel
3 and witness.)

4 ROSEMARY COATES, having been duly sworn
5 testified as follows:

6 EXAMINATION

7 BY MR. TOWNSEND:

8 Q Good morning again, Ms. Coates. My name
9 is Nathan Townsend. I'm with the law firm K&L
10 Gates I represent the plaintiff International
11 Paper in this matter. Could you please identify
12 yourself for the record?

13 A Yes, Rosemary Coates.

14 Q And are you serving as expert witness for
15 Beazley Insurance Company in this matter?

16 A Yes, I am.

17 Q I'm assuming -- but correct me if I'm
18 wrong I'm assuming you have done a good number of
19 depositions in the past; is that right?

20 A I have, yes.

21 Q So are you pretty familiar with the rules?

22 A I am.

23 Q Okay. Just one quick reminder, especially
24 for remote deposition, do your best to wait to
25 answer my question until I'm finished questioning

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1 you, and I will try to do the same, try to wait
2 until your finished answering. That just helps
3 our court reporter transcribe accurately.

4 Ms. Coates, have you brought any documents
5 with you today for this deposition?

6 A I have my report in front of me, and also
7 Mr. Grassley's (sic) report.

8 Q Is that Mr. Glasser?

9 A Glasser, sorry.

10 Q And that report of yours is dated December
11 8th, 2023?

12 A Yes, correct.

13 Q Okay. Do you have anything else besides
14 those two reports?

15 A No, not in front of me.

16 Q Do you have anything on your computer
17 you're relying on for this deposition today?

18 A No.

19 Q Ms. Coates, what do you consider yourself
20 to be an expert in?

21 A I'm a global supply-chain expert perform
22 I've done all kinds of supply-chain work. And
23 that includes a fairly significant amount of work
24 with purchasing departments in the chemicals
25 industry, and over 40 years I've done all kinds of

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1 things, as you can imagine in the supply chain
2 management and also in teaching, negotiations, in
3 procurement environment.

4 Q Would you consider yourself an expert in
5 commercial crime insurance policies?

6 A No.

7 Q Would you consider yourself an expert in

8 employee theft?

9 A No, although I have been involved in a
10 couple of cases that involved employee theft in
11 some way or another, but, I'm not an expert in
12 that area.

13 Q How many cases have you been involved in
14 regarding employee theft?

15 A Off the top of my head, two that I recall
16 and there may have been others, but two that I
17 remember.

18 Q Okay. Do you remember when the last one
19 of those cases took place?

20 A A couple of years ago.

21 Q Do you consider yourself an expert in the
22 manufacture of specialty chemicals?

23 A Not a particular expert but I do have
24 experience with a few companies that deal in the
25 specialty chemicals arena including Chevron's

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Page 5

1 Division Oronite where I worked for over a year
2 one a project. And that's a specialty chemical

3 division of Chevron.

4 Q Just to make sure we're on the same page,
5 can you tell me what special chemicals are?

6 A Yeah, well, they are general chemicals
7 that are used to facilitate some other kind of
8 manufacturing process, additive chemicals;
9 sometimes they are particular chemicals that have
10 a special reaction, something like that.

11 They are not -- the alternative would be
12 blockbuster chemicals. They are not that.
13 Blockbuster chemicals that are big things that
14 commonly used in processing so these are
15 individual chemicals that are designed to address
16 a specific need in manufacturing.

17 Q Okay. Can you tell me what your
18 experience with Chevron involved?

19 A Yes, so at the time I was an employee of
20 SAP and we were implementing SAP across Chevron
21 including at other night and in order to do that,
22 to implement software, you have to understand and
23 document every process in the company, so we were
24 definitely down in the detailed weeds of every
25 single process over a long period of time.



1 Q So that involved working with Chevron to
2 install their enterprise resource platform, is
3 that what project management --

4 A Correct, correct.

5 Q Would you consider yourself an expert in
6 the use of specialty chemicals?

7 A No. I'm -- other than tangentially to the
8 work that I do in manufacturing I'm not an expert
9 in how to specifically apply those chemicals.
10 That would require chemical engineering degree.

11 Q Would you consider yourself an expert in
12 the distribution of specialty chemicals?

13 A In terms of distribution, you mean the
14 logistics of it? Is that what you're talking
15 about.

16 Q Maybe we'll back up. Can you tell me what
17 a distributor is?

18 A Yeah, so generally I would say a
19 distributor is a company that is in between the
20 actual manufacture of the goods and the buyer, the
21 ultimate buyer or user of the product as a general
22 rule they take orders, they negotiate sometimes
23 the terms and conditions low -- they provide

24 logistic services, follow-up, backup. Sometimes
25 they have their own trucking operations. They



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1 provide expertise in certain areas. They
2 coordinate orders. So there's a lot of
3 value-added services that distributors normally
4 include and of course the depends on what industry
5 you're in.

6 So a distributor for software, for
7 example, is somewhat different than a distributor
8 for chemicals.

9 Q Does a distributor take physical
10 possession of the product that its distributing?

11 A Not usually, no.

12 Q Does a distributor in your mind have
13 warehouses?

14 A Well, they can. I mean you know,
15 depending what industry you're talking about, they
16 could warehouse and resell from that warehouse.

17 If you're in medical supplies for example,
18 medical groups have big distributors that hold

19 goods in a warehouse and then send those out as
20 needed. But in other industries, there is no
21 physical presence. It's more of a services
22 provided situation, so it just depends on the
23 industry.

24 Q You mentioned earlier something about
25 trucks. I want to follow up on that does a



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1 distributor typically have a fleet of vehicles it
2 uses to distribute its products?

3 A It can. In the oil industry, for example,
4 distributors usually have their own fleets and
5 they make distributions that way of specialty oil
6 products.

7 If -- in other cases, if they are a
8 coordinator kind of distributor then perhaps not.
9 So it just depends on the situation.

10 Q And is a coordinator distributor different
11 than just a distributor?

12 A It's one type it's not different it's a
13 type of what kind of service these provide.

14 Q What would a coordinator distributor do?

15 A Coordinate orders, read the -- in this
16 case reading the telemetry levels using expertise
17 background knowledge and experience to understand
18 the needs of the client, looking at, you know,
19 what's available, moving on opportunities for
20 maybe sale prices, you know, there are all kinds
21 of services that because they are in the middle
22 between the manufacturer and the ultimate buyer,
23 they have advisability too and can provide
24 additional value-added services as a result.

25 Q Would you consider yourself an expert in

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1 the types of services that a specialty chemical
2 distributor provides?

3 A I'm sorry, can you repeat that?

4 Q Would you consider yourself an expert in
5 the types of value-added services that a specialty
6 chemical distributor provides?

7 A Well, I certainly understand and have an
8 experience in the kind of value-added services
9 that these sort of distributors provide. I'm not

10 sure I would call myself an expert in that area
11 but I'm certainly a supply-chain expert and have
12 experience in this area.

13 Q Okay. And would you consider yourself an
14 expert in the profit margin that a specialty
15 chemical distributor can normally attain?

16 A Well, that's kind of an odd approach. I
17 think I would explain it differently by saying the
18 relationship between a buyer and a seller, whether
19 the seller is a distributor or a manufacturer,
20 involves negotiation and I can certainly tell you
21 what's normal in the industry based on my 40 years
22 experience but there aren't any particular
23 standards. It's more generally what happens in
24 the industry.

25 Q And when you say "industry," are we

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1 talking about the specialty chemicals distributor
2 industry?

3 A It could be any industry. I would say by
4 and large what happens in a procurement
5 environment is there a common idea generally in an

6 approach based on experience about distributors,
7 whether it's a plastics product or a chemical
8 product or a some kind of software or some kind of
9 electronics. There's a, you know, generally
10 applied processes.

11 To my knowledge, there is nothing written
12 down anywhere about a standard but certainly a
13 common practice that you would see over and over
14 again.

15 Q So a common practice among all
16 distributors?

17 MR. DALEY: Objection.

18 A You know, each relationship is individual,
19 so to say all isn't the right term. I think I
20 would say it's, you know, generally that there are
21 certain processes that are used over and over
22 again in a procurement environment.

23 Q Okay. But so each distributor
24 relationship has its own unique circumstances,
25 would you agree?



1 MR. DALEY: Objection.

2 A Yes. I think that's probably right. You
3 know, every company is slightly different and the
4 they have their own goals and methods and so
5 forth. There is some commonality in the
6 requirements but I think, you know, each
7 distributor is probably unique, yes.

8 Q Would you consider yourself an expert in
9 corporate diversity programs?

10 A I have lots of experience in working with
11 distributors -- or all kinds of programs related
12 to purchasing and the approach looking for
13 diversity in supplies, so most purchasing
14 departments have some kind of diversity program
15 and they have their own internal, you know,
16 policies about it but in general I think everyone
17 prefers to have a diversity program and to execute
18 a diversity program so am I an expert, I think
19 that was your question, I certainly have lots and
20 lots of Spears with diversity programs so yes, I'm
21 not a diversity expert per se, but can certainly
22 lend my opinion regarding what I've seen over many
23 years.

24 MR. TOWNSEND: Great. Thank you. Kieran,
25 we are going to give it a go on your first

1 exhibit, if you could assist me.

2 Q Ms. Coates, if you would open up your
3 chat, we are going to try on upload our first
4 exhibit, which will be the Exhibit 1, the report
5 of Rosemary Coates in the chat. Once it appears
6 there we were all click it on and we should be
7 able to open it.

8 A Okay.

9 A/V TECHNICIAN: You should be seeing it
10 in the chat. Just let me know if anyone has any
11 issues.

12 (Marked for identification Exhibit 1.)

13 Q Ms. Coates, just let me know when have you
14 that document open.

15 A It's asking me to download it.

16 Q Yes, you will need to download it.

17 A Okay, hold on a minute. Okay. I've got
18 it.

19 Q Great. So, you are welcome to take as
20 much time as you need with this document. I'll
21 let you know that it is your expert report

22 submitted here that we have up in front of us but
23 if you feel the need to refresh yourself on
24 anything that in here you please let me know we
25 can take as much time as you need for that.

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1 So my first question with this document
2 is, did you issue this report in the matter of
3 International Paper company versus Beazley
4 Insurance Company?

5 A Yes.

6 Q And have you had a chance to review this
7 report in preparation for your deposition today?

8 A Yes.

9 Q Is there anything in here that you would
10 want to modify based on your review?

11 A Nothing specifically at this time.

12 Q Is there anything that you feel would you
13 need to add to this report at this time?

14 A No.

15 Q Is there anything that you would wish to
16 delete?

17 A No.

18 Q There's anything that you would wish to
19 correct based on your knowledge?

20 A I think there is one footnote that's kind
21 of odd that I would probably change but that's it.

22 Q Okay. So do you stand by the opinions and
23 conclusions in this report submitted on December
24 8th?

25 A Yes.

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Page 14

1 Q Let's go down to page 26 together. Just
2 let me know when you're there?

3 A Yes.

4 Q This says attachment B, VC of Rosemary
5 Coates. Is this your curriculum vitae?

6 A Yes, it is.

7 Q Is this up to date yes?

8 A Yes, it was as of December 8th, so, yes, I
9 think it is generally.

10 Q And it provides all of your education and
11 experience at least through December 8th, of 2023?

12 A Yes.

13 Q All right. Is there anything within this
14 curriculum vitae that is relevant to this employee
15 crime insurance case?

16 A Crime insurance?

17 Q Yes, ma'am.

18 MR. DALEY: Objection.

19 A Yeah, I don't -- well, I've worked on some
20 criminal cases but I'm not sure that they are
21 related to crime insurance, so, no. Probably not
22 other than just tangential information during --
23 you know, during some case that a worked on.

24 Q Are there any professional certifications
25 listed here that are relevant to your opinions in

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1 this matter?

2 A Well, I certainly have a lot of experience
3 in procurement and even have written a book about
4 procurement negotiations, so I'm very -- that's
5 very relevant. Certifications, my education
6 certainly. I have undergrad degree in logistics
7 and transportation and MBA focused in finance and

8 operations management.

9 I have -- each worked for SAP for four
10 years and have training with respect to SAP and
11 the processes there.

12 What else? I don't know I have lots and
13 lots of experience.

14 Q Okay. Understood. You mentioned the
15 cases where that involved employee theft that you
16 worked on previously. Did you -- well, let me ask
17 it this way: Do you recall what you did on those
18 matters?

19 A Yeah. I assisted in a couple of
20 situations regarding purchasing. One that was
21 through a big company that was purchasing product
22 through a fake shell company essentially. That
23 was one case.

24 And then I've also worked on some
25 counterfeit cases that involved counterfeit goods

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1 moving through procurement channels. Yeah. I
2 don't know what are looking for here.

3 Q On the cases involving employee theft,

4 were you retained by an insurance company?

5 A No.

6 Q The case that involved the fake shell
7 company, can you tell me why the company was
8 considered fake?

9 A Yeah. And they were sort of an interim
10 company where funds were going to that interim
11 company and then they were subcontracting some of
12 the working and so forth. There was a money flow
13 involved in...

14 Q Do you remember the name of that case?

15 A Yeah, it's Cisco. I'm not sure it's on
16 there, and the reason why it's on hold right now,
17 and I haven't written an expert report yet so I
18 don't usually add cases until I either write a
19 report or do a deposition or something if it's
20 just I'm still reading or whatever, I don't add
21 it.

22 Q Okay. So you haven't actually written a
23 report on that matter yet?

24 A Not yet, no.

25 Q And have you been retained by an insurance



1 company in the past to serve as expert witness?

2 A Yes.

3 Q Approximately, how many times?

4 A I don't know. One for sure, maybe -- let
5 me -- hold on a minute and let me look through
6 this. I can probably tell you.

7 Q Sure.

8 (Witness reviewing document.)

9 A Okay, well, gosh, so many of these
10 involved insurance but I wasn't necessarily
11 retained by the insurance company. There are two
12 for sure. In 2015, there was a specialty
13 automotive theft, that's Michael Sunter versus
14 OneBeacon Insurance.

15 And then also in 2015 Herzfelds versus
16 Hartford Casualty Insurance.

17 Q Okay. Have you ever been retained by a
18 policyholder in an insurance-dispute case?

19 A Probably. Gee, I mean, all of the
20 companies generally have insurance, some kind of
21 business insurance so yeah, I'm sure probably all
22 policyholders.

23 Q Sorry, maybe it's not clear enough. Have

24 you ever been retained by a policyholder in a
25 matter involving the policyholder suing their

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1 insurance company?

2 A I don't know I can't remember on those in
3 2015 if they were suing the insurance company or I
4 was working for the insurance company. I just
5 don't remember. I would have to look at the
6 details.

7 Q Okay. Has your opinion ever been excluded
8 by a court before?

9 A Once, yes.

10 Q Can you tell me the name of that case?

11 A Yeah, it was -- let's see if I can find it
12 for you. It's 2015 Ai-Daiwa versus Apparent, and
13 this was a case involving a contract dispute.

14 Q Okay. Do you know the reason the Court
15 excluded the opinion?

16 A Yes, I was a rebuttal expert and the other
17 expert, the opposing expert was an engineer and he
18 speak to quality test procedures, and in my
19 opinion reviewing the documentation, the dispute

20 was between -- was about a contract who was
21 responsible for the services, not how they would
22 do the services. And so I was excluded because
23 I'm not an engineer, although the Judge in that
24 case said there was no question I was a
25 supply-chain expert, just that I couldn't opine on

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1 the engineering part of the test procedures.

2 Q Have you ever withdrawn an opinion when an
3 opposing party has challenged it, if that makes
4 sense?

5 A Yeah, no, not to my knowledge, never been
6 withdrawn.

7 Q Okay. Let's -- we're staying with with
8 Exhibit 1, Ms. Coates. Let's go up to page 3 my
9 paragraph 2 so just let me know when you get
10 there?

11 A Okay. I'm there.

12 Q Last line of paragraph 2 reads: I have
13 consulted and worked on global sourcing and
14 manufacturing engagements with over 80 clients

15 worldwide throughout my long career.

16 Correct?

17 A Yes.

18 Q Were any of those 80 clients a paper
19 manufacturer?

20 A Yes, I've worked with one paper
21 manufacturer, actually they may toilet paper, and
22 it wasn't -- it was a consulting engagement.

23 Q Okay. Who was that paper manufacturer?

24 A Now you got me. They are in upstate New
25 York. I can't -- I can't remember the name of the

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1 company off the top of my head, but I could find
2 it, so --

3 Q Okay. When was that approximately?

4 A Right after the pandemic, so they had
5 switched over their production lines to produce --
6 they were producing industrial toilet paper, the
7 big rolls for like airports, and sort forth. They
8 switched it over to consumer paneling because of
9 high demand for toilet paper during the initial
10 part of the pandemic.

11 Q Okay.

12 A Sounds funny but, you know, it's
13 important.

14 Q Right. We were all depending on it?

15 A True.

16 Q Have you ever work for any company in the
17 pulp industry?

18 A Pulp? Not that I recall.

19 Q Okay.

20 A I take that back I did work a SAP
21 assignment warehouse in Washington State. They
22 produced pulp also.

23 Q Okay. And have you -- you may have
24 already answered there so I apologize. Have you
25 ever worked for a company that distributes

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1 specialty chemicals?

2 A Yes.

3 Q Who was that?

4 A Well, some of the companies do distributor
5 themselves so Chevron other night used both

6 distributors as well as sole direct customers.

7 Q Okay.

8 A Yeah, and then I think Cytex also worked
9 through distributors as well as sold direct.

10 Q Okay. When Chevron served as a
11 distributor of specialty chemicals, what did they
12 do?

13 A When Chevron was doing the distributing?

14 Q Yes.

15 A They made chemicals available to the
16 buyer. They may have negotiated a contract. They
17 had their own trucks so they did deliveries if it
18 was promote. Obviously if you have a small
19 specialty chemical, it comes in a gallon size, or
20 whatever, they wouldn't have driven that with
21 their own trucks, but they would have shipped it
22 some other way.

23 But, yes, so they -- they interact with,
24 they you know, look at the requirements just the
25 same kind of value-added services that a

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1 distributor would do.

2 Q Okay. And Chevron also manufactured the
3 chemical it was distributing?

4 A Chevron Oronite.

5 Q Chevron Oronite.

6 Right. How about Cytex? What did Cytex
7 do in its specialty chemical distributorship
8 business?

9 A That was a long, long time ago at least 20
10 years. I think Cytex was making mostly building
11 block chemicals at the time and had a small
12 operation doing specialty chemicals. I was
13 necessarily on that side of -- it was a consulting
14 project and I wasn't necessarily on that side of
15 the business. I think we were doing more
16 import/export requirements for them.

17 Q Okay. Gotcha. Let's scroll down to
18 paragraph 14, which spans pages 5 and 6.

19 A Yes.

20 Q I'm going to be reviewing the top of the
21 page 6. I see three letters A, B and C.

22 Do you see those?

23 A Yes.

24 Q In the first one -- let's go backwards.

25 So it said for subpart C, I examined the IP paper



1 website, right?

2 A Yes.

3 Q Is that one of the ways that you arrived
4 at opinions in this case?

5 A Well, it gives me context. So I always
6 look at Website so that I understand more about
7 the company, what they do, if they have policies
8 listed I also look for any kind of supplier
9 information. A lot of times a company will
10 publish supplier information right on their
11 website. I don't recall seeing that with
12 International Paper but there are often comments
13 about diversity as well, so, you know, I just go
14 through the website and try to understand what
15 the -- what the company is all about.

16 Q Okay. And for subpart B it says I
17 researched several published articles about
18 doubters of chemicals and distributors in
19 manufacturing environments, correct?

20 A Yes.

21 Q Can you let me know what published

22 articles you researched for this matter?

23 A Yes, I think they are in the appendix I
24 listed everything I look at in the appendix.

25 Q So your testimony they will be done there

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1 in I believe it's called attachment A is how its
2 referenced?

3 A Yes.

4 Q Okay. And did these published articles --
5 how many were there, if you recall?

6 A I don't remember but they should all be
7 listed in attachment A.

8 Q Okay. Maybe what we will do is do some
9 scrolling together could you go down the page 14.
10 There is a footnote 23.

11 A Yes.

12 Q Is this one of published articles here?

13 A Yes.

14 Q And scrolling up to the bottom of page 12,
15 there is footnotes 21 and 22, if you can see
16 those.

17 A Page 12, yes.

18 Q Are those also to the published articles
19 referenced in subpart B?

20 A Yes.

21 Q And the last one that I've identified is
22 on page -- bottom of page 7 at footnote 2.

23 A Okay, yes.

24 Q Is that one of the published articles?

25 A Yes.

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Page 25

1 Q Beyond the four that we've just discussed,
2 are there any other published articles that you
3 relied on?

4 A No that I relied on. I look at some
5 different places to validate what I might -- what
6 my knowledge is telling me, so what my experience
7 is, and then I looked to see, you know, if I could
8 validate that from different places and footnoted
9 all those places where I read an article and
10 relied on that article; otherwise it was just
11 background information.

12 Q So say you looked I think you said

13 different places. Are the different places these
14 four articles we've identified in the footnotes or
15 is the something else?

16 A No, if I didn't rely on it was just
17 reading, you know, doing general search on the
18 internet. So, no, I didn't reference every single
19 place, no.

20 Q So, was it articles you identified on the
21 internet?

22 A Yes, I searched on the internet, yes,
23 correct.

24 Q And there wasn't any sort of trade journal
25 that you consulted, or anything like that?

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1 A Well, perhaps I did an internet search so
2 I didn't display all the search results, but if I
3 didn't rely it on, then it's not footnoted.

4 Q Let's return to top of page 6 with our
5 three subparts. Okay?

6 Q So subpart A rides: I determined the
7 underlying facts of the case by examining the
8 relevant documents provided to me and I requested

9 from the defendant's attorney. The documents I
10 reviewed are listed in attachment A.

11 Did I read that correctly?

12 A Yes.

13 Q Beyond what's in attachment A, are there
14 any other documents from this case that you relied
15 on?

16 A Not that I relied on, although I was given
17 two more depositions after I submitted my report.

18 Q Were there any other documents besides
19 those two depositions that you relied on that are
20 not in attachment A?

21 A No.

22 Q Okay. Let's go down to attachment A now.
23 That begins at page 15. Just let me know when
24 you're there.

25 A Yes, I'm there.

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1 Q Okay. I see it says that you reviewed the
2 deposition of Michelle Rivers with exhibits,; is
3 that right?

4 A Yes.

5 Q And when you say reviewed, did you read
6 every page of the document or -- let me withdraw
7 that.

8 What does review mean?

9 A Yes, I generally read every page. I
10 sometimes skim over some of the introduction part
11 but, yes, generally, I read the body and every
12 page.

13 Q Okay. And the next bullet says: Doug
14 Dowdell deposition exhibits 21 through 30.

15 So did you read the trips for this
16 deposition or did you review exhibits 21 through
17 30?

18 A I believe I just reviewed the exhibits.

19 Q You mentioned just a moment ago that you
20 reviewed the transcripts for two other witnesses
21 in this case; is that right?

22 A Yes.

23 Q Who were those witnesses?

24 A Mark Allen and Balsara so I can't remember
25 how to pronounce it.

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1 Q Was it Balsara?

2 A That's the one, yes.

3 Q Did you also review the exhibits to those
4 transcripts?

5 A No, just the transcripts.

6 Q Okay. Did you review the transcript or
7 exhibit s of the testimony of Danny Van Horn?

8 A No.

9 Q Did you review the transcript or exhibits
10 of Brian Pinson?

11 A No.

12 Q Did you review the transcript or exhibits
13 of Metrick Houser?

14 A No.

15 Q Did you review the transcript or exhibits
16 of Pia Ellis?

17 A No.

18 Q Did you review the transcript of Shiv
19 Kumar Seetha Raman?

20 A No.

21 Q Similar question to what I asked you with
22 transcripts, Ms. Coates, for all of these
23 documents listed on attachment A, did you read
24 each page of these exhibits?

25 A Yes, I believe so.

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1 Q Okay. When were you retained by Beazley
2 Insurance Company?

3 A Sometime in October, November of 2023.

4 Q And who reach out to you?

5 A Attorneys. Yeah, gee, that's a good
6 question. I can't think of his name, other Gene
7 Murphy, sorry, yeah.

8 Q And you mentioned sometime in October or
9 November of 2023. Was it after Bob Glasser had
10 submitted his expert report in this matter?

11 A I don't remember.

12 Q Okay.

13 A Report is dated November 9th, so I don't
14 know if it was before or after.

15 Q Okay. Have you spoken to anyone at
16 Beazley in preparation for your deposition today?

17 A No.

18 Q Have you spoken to anyone at Beazley
19 regarding this assignment?

20 A No.
21 Q Did you prepare this expert report?
22 A I did, yes.
23 Q Did you have anyone assist you with this
24 expert report?
25 A No.

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1 Q That was not best question so I'm going to
2 actually ask it again.
3 Did anyone assist you in writing this
4 expert report?
5 A No.
6 Q How many hours have you billed Beazley for
7 this matter?
8 A That's a good question. Let me think for
9 a minute. I think about 25 or 30, something like
10 that.
11 Q Okay. Let's take a look at page 14, and
12 we're going to look at paragraphs 47 and 48. Let
13 me know when you're there?
14 A Yeah, I'm there.
15 Q This might seem obvious but I'll ask it

16 anyways is this the conclusion of your expert
17 report in these two paragraphs?

18 A Yes.

19 Q And for paragraph 47, it says:

20 Considering the facts and circumstances described
21 above, the standard markup taken by any
22 distributor, the value-added services and
23 assumption of risk provided by DGS and Mid-South
24 and value these companies provide to IP's
25 diversity program supports a markup on the DDS

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1 Mid-South transactions of at least 8 percent to 10
2 percent.

3 Did I read that correctly?

4 A Yes.

5 Q What is DGS?

6 A What is DGS?

7 Q Yes.

8 A They are chemical -- specialty chemical
9 distributor.

10 Q Do you know what DGS stands for?

11 A Yeah, let's see I think I just looked that
12 up. I had a question about that, too.

13 Q Just to cut it to is Diversified Global
14 Sourcing, Inc.?

15 A Yeah, I think that's it, yes.

16 Q And what is Mid-South?

17 A So, it's my understanding it was another
18 company owned by the same people that was also
19 distributing specialty chemicals. The actual
20 business arrangement, I'm not -- I'm not privy to.

21 Q Okay. Do you know who owned Mid-South?

22 A I think the same ownership, so Shiv I
23 think owned both companies.

24 Q Okay. If you recall, can you tell me how
25 you learned that Shiv owned both companies?

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1 A I don't recall.

2 Q I don't -- well, never mind. I'm not
3 going to ask because that would be inappropriate.

4 Okay. So Ms. Coates, as I understand it
5 from reading paragraph 47, you are arriving at
6 what I believe you term a reasonable markup for

7 the DGS/Mid-South transactions of at least 8 to 10
8 percent; is that right?

9 A Yes.

10 Q And can you tell me how you 8 to 10
11 percent?

12 A Yeah. So, basically this is based on my
13 experience over many years dealing with purchasing
14 departments and teaching negotiations to various
15 companies, I taught purchasing negotiations for
16 ten years.

17 And generally, purchasing department will
18 have a minimum that they will allow of a floor, if
19 you will, and then a targeted amount.

20 So, there's usually two amounts that I
21 buyer will go into a negotiation with and I would
22 say the 8 to 10 percent is the absolute floor, its
23 minimum, the most conservative approach and the
24 floor that stops the negotiation if they can't --
25 if they can't go any lower, then the negotiation

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1 is stopped or proceeds in a different way.

2 Q Okay. And you reference the buyer, is
3 that the party purchasing specialty chemicals from
4 the specialty chemical distributor?

5 A Yes.

6 Q Okay. I see that the 8 to 10 percent is a
7 range. Why is it not just a single digit?

8 A Well, you have to understand in a
9 purchasing situation there, are always ranges and
10 that's a very important concept because there is
11 given and take in negotiation.

12 So you may ask for a lower price but in
13 exchange for that, you have to give up something,
14 or you may ask for a higher price if your a
15 distributor, and exchange for that, you give some
16 other something of value back to the buyer.

17 So there are always ranges. Buyers always
18 go into negotiations I would say every time in my
19 experience, you know, this is what we teach and
20 this is what most buyer also do, is to go in any
21 negotiation with a range. So that they have some
22 flexibility during that negotiation process.

23 Q Okay. So the range is a concept taught to
24 buyers for use in negotiations; is that fair?

25 MR. DALEY: Objection.

1 A I'm sorry.

2 MR. DALEY: I was objecting. You can
3 answer, Rosemary.

4 A I would say it's not taught -- well, it is
5 taught but it is also standard practice. Sort of
6 a tribal knowledge. That's what they do.

7 Q I think you said this earlier, that 8 to
8 10 percent is the minimum?

9 A Yeah. That would be the absolutely --
10 absolute floor, the bottom. And then you would --
11 the normally the distributor would try to get
12 additional percentage points based on the kind of
13 value-added services they provide.

14 My feelings about it are that you know, at
15 15 to 20 percent range is pretty typical and
16 probably warranted in this particular case but in
17 in circumstance would they go below 8 to 10
18 percent.

19 Q Now, this floor of 8 to 10 percent, is
20 that a number I can identify in like a commercial
21 database?

22 A A commercial database? What do you mean

23 by that?

24 Q Can I look this number up on the internet?

25 A Yes. Definitely. There are places all



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1 over the internet that show that average
2 distributor ranges well that are typically 15 to
3 20 percent but can range lower than that, and
4 higher than that.

5 Q Okay. Is there any sort of department of
6 commerce data collection that identifies this
7 floor of 8 to 10 percent?

8 A Not that I'm aware of.

9 Q Okay. Did you perform any calculations to
10 arrive at the reasonable markup DGS of 8 to 10
11 percent?

12 A No. That's out of scope for what I was
13 asked to do. I was asked to opine on the
14 reasonableness of the markup, not necessarily how
15 it's calculated.

16 I think Mr. Glasser is an accountant and
17 he did calculations, which were based on numbers

18 and not experience.

19 Q Same question for Mid-South, did you
20 perform any calculation to arrive at the 8 to 10
21 percent markup for Mid-South?

22 A No, that was out of scope of my
23 assignment.

24 Q Okay. Did you use any chemical specialty
25 chemical distributors as a comparator to test the

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1 8 to 10 percent markup?

2 A Well, based on my experience, yes. I mean
3 I would say in negotiations that most distributors
4 -- and it doesn't have to be just specialty
5 chemical. I see this over and over again in a
6 distributor environment 15 to 20 percent a very
7 common markup because those distributors are
8 providing value-added services.

9 Q Could you main an example of one of the
10 comparators you used?

11 A Comparators?

12 Q Yes.

13 A I'm -- I'm not sure what -- I'm not sure

14 what you mean.

15 Q Oh, okay. So, did you take any company
16 besides DGS/Mid-South and calculate their makeup
17 and compare it to the markup of DGS and Mid-South?

18 A No.

19 Q Did you create any work papers that I
20 could review to see how you arrived at your 8 to
21 10 percent reasonable markup?

22 A No. It's based on my experience and, you
23 know, teaching, and being in a procurement
24 environment for many, many years, and not anything
25 that I sat down and calculated. It's just

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1 knowledge.

2 Q Okay. Were there be a way for me, as a
3 layman, to be able to re-create had you you
4 arrived at your 8 to 10 percent markup?

5 A Sure. If you wanted to have 40 years of
6 experience in procurement, yeah, you could
7 re-create it.

8 Q But there is no -- Excel spreadsheet that

9 I can open and see how you arrived at your final
10 figure?

11 A No. As I mentioned before, procurement
12 buyers, procurement people are going to go in
13 with ranges and that's based on their experience,
14 their company policy, their management leadership,
15 anything that they can do with respect to
16 research, understanding what value-added services
17 the distributor is providing. So these are all
18 you know, standard practice, common practice in
19 the industry.

20 Q Okay. You mentioned that the 8 to 10
21 percent was a floor and then a distributor could
22 seek an additional markup based on value-added
23 services; is that right?

24 A Yes.

25 Q So, could a distributor not provide any

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1 volume services and still receive 8 to 10 percent?

2 A Possible. Because, you know, the sheer
3 definition of a distributor is sort of a middleman
4 providing services. So, if you think about it,

5 think about Amazon, they are a distributor. They
6 are not doing anything with the products they wry
7 sell. But they do provide a logistics network and
8 order processing site, software, you know, all
9 these things are volume services so in
10 compensation for that they take a markup on
11 anything they resell.

12 Same concept applies to chemicals or
13 plastics or electronics. There are volume
14 services provided, at least minimally. That's
15 where I say the 8 to 10 percent comes from.

16 Q So the 8 to 10 percent does require some
17 sort of service from the distributor to justify
18 it, right?

19 MR. DALEY: Objection.

20 A The very definition of a distributor is
21 that they are middleman that provides volume
22 services, yes.

23 Q Does a distributor typically have more
24 than one customer volume value?

25 A They can certainly I have seen captive

↑

1 distributors also. It just depends on the
2 situation in the industry.

3 Q Can you tell me what a captive distributor
4 is?

5 A A what?

6 Q A captive distributor?

7 A A captive distributor these where they are
8 only servicing one customer. They may choose to
9 be captive, or you know, they just are by nature
10 but they probably deal with multiple
11 manufacturers, so they are looking out across the
12 landscape of goods and finding manufacturers, you
13 know providing research, that sort of things but
14 they are servicing only one customer.

15 Q Okay. Now, I don't want to
16 mischaracterize the testimony so tell me if I'm
17 wrong on this, but I think toward the beginning of
18 our conversation today you mentioned that each
19 distributor relationship has its own unique
20 circumstances, is that generally right?

21 A Yes.

22 Q So if they all they have own unique
23 circumstances, how is it that that this is a
24 single 8 to 10 percent floor?

25 MR. DALEY: Objection.

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1 A Well, you know, distributors come in all
2 shapes and sizes. Some are diversity related
3 suppliers, some on not some have their own fleets
4 and trucks, and some do not.

5 Some do order processing. Others like in
6 the case of DGS, they provide chemical engineers
7 services and background, you know, in this case
8 DGS. They had extensive education and background
9 and training they were providing that kind of
10 additional services so, distributors come in all
11 shapes and forms and provide all kinds of
12 different sorts of services for a buyer.

13 Q Okay. Is the 8 to 10 percent all
14 distributors in the United States?

15 A Oh, no, I think that's a fairly good
16 worldwide rock-bottom markup.

17 Q So it's 8 to 10 percent rock-bottom markup
18 applies to distributors across the entire world?

19 MR. DALEY: Objection.

20 A Yes, I think that's a good -- a good

21 percentage target, yes, to start with, floor basic
22 beginning, yeah.

23 Q Identify a floor for all distributors
24 worldwide, did you consult any polling?

25 MR. DALEY: Objection.

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1 A No. You know, it's really based on so
2 much experience and working with buyers and big
3 and small companies around the world. It's just
4 -- it's just the normal practice.

5 Q Okay.

6 MR. TOWNSEND: It's 1:11 here. We've been
7 going about an hour, is this a good time for a
8 break for everyone? Maybe we take like nine
9 minutes and come back. At least my time is 1:20.
10 I think it's 10:20 your time, Ms. Coates.

11 THE WITNESS: Yes, that's fine. Yes.

12 MR. TOWNSEND: Let's maybe we'll take a
13 break for a little while and go off the record.

14 (Off the record.)

15 BY MR. TOWNSEND:

16 Q Ms. Coates, what was the question you were
17 asked to answer when you were retained by Beazley?

18 A Yeah, so the scope of the assignment is,
19 let's see, up in paragraph -- I'll tell you
20 exactly what I was asked.

21 A So it was based on my experience in global
22 manufacturing and procurement and I was asked to
23 talk about supply chain management, the
24 manufacturing process, procurement processes, and
25 distributors of chemicals in manufacturing

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1 operations, and to provide rebuttal comments to
2 Mr. Glasser.

3 Q Okay. Thank you. Now, are you opining
4 that the markup that DGS applied when it sold
5 specialty chemicals to IP is reasonable?

6 A Absolutely. And I think they, Mr. Glasser
7 points out, the average is 19 percent and and I
8 think that is totally reasonable.

9 Q Okay. And are you opining that the markup
10 that Mid-South applied when it sold specialty
11 chemicals to International Paper is reasonable?

12 A Yes, and an I'm a little hesitant because
13 I'm not sure how much there was distribution or
14 distributor ship between DGS and Mid-South. I
15 didn't -- I didn't research that or have reason to
16 understand what the split was in terms of who was
17 providing what.

18 Q In your conclusion on page 14 you opine
19 that the 8 to 10 percent markup was reasonable,
20 correct?

21 A Yeah, well, it's the baseline. It's the
22 floor, if you will, it's the place that there is
23 no expectation would go below a buyer would think
24 that 8 to 10 percent is very, very low and the
25 very floor, the very minimum that would be offered

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1 to distributor.

2 Q Does the 8 to 10 percent include the fact
3 of whether the distributor is diverse or
4 nondiverse?

5 A No.

6 Q And is there any distributor that you

7 identified that provides services similar to DGS
8 that you used to assess whether DGS is markup was
9 reasonable?

10 A I'm sorry, can you repeat that question?

11 Q Was a mouthful.

12 Is there any company let me strike that
13 company.

14 Is there any distributor that you
15 identified that has services similar to DGS? In
16 fact, we'll leave it right there.

17 A No.

18 Q Is there any company that you identified
19 that has services similar to Mid-South?

20 A No.

21 Q So you did not compare the services that
22 DGS provided to International Paper to what
23 services another distributor would be providing?

24 A Well, the comparison is based on the body
25 of knowledge that I've gained over many years in



1 the industry. And, you know, what those common
2 standards are, what the common approach is, and so

3 forth. So there was no need to go out and try to
4 find a direct competitor or that sort of thing.
5 That would be out of scope for what I was asked to
6 do.

7 Q So there was no -- no comparison with any
8 other specific companies for you to reach your
9 opinion?

10 A Yeah. I'm not sure I would put it that
11 way. I mean compared it based on my knowledge and
12 experience over many years, and there's lots of
13 specific companies involved but I didn't reach out
14 to any of those companies, if that's what you're
15 asking, no.

16 Q Well, you didn't -- and correct me if I'm
17 wrong, but you didn't identify a specific
18 distributor and assess that distributor's markup?

19 MR. DALEY: Objection.

20 A No.

21 Q Ms. Coates, let's go up to page 7 at
22 paragraph 21. Just let me know when you're there.

23 A Okay.

24 Q In the second sentence of paragraph 21
25 reads: Telemetry is the process of gathering the

1 performance data of any product and communicating
2 it to a remote location for monitoring and
3 analysis.

4 Did I read that correctly?

5 A Yes.

6 Q Is this definition provided here in
7 paragraph 21 the same service that DGS provided to
8 International Paper?

9 A Yes.

10 Q What performance data did DGS gather?

11 A It's my understanding that they were
12 looking at remote information regarding the usage
13 of chemical products in the manufacturing site
14 International Paper.

15 Q Sorry, go ahead.

16 A No, I was just going to say that Mark
17 Allen testified that he helped -- he was reading
18 the results and helped the controls engineers at
19 International Paper with that kind of information.
20 That's all telemetry. It's the signalling of
21 what's being used by a machine to some -- some
22 other remote location, so that people can monitor

23 it and understand what's happening in the
24 manufacturing process.

25 Q When you say performance was DGS measuring

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1 the efficiency of specialty chemicals at
2 International Paper?

3 MR. DALEY: Objection.

4 A The efficiency of use? Well, I think
5 that's part of -- that's part of monitoring
6 process. I mean, you are looking at usage
7 numbers. You're looking at any kind of
8 troubleshooting, overuse, underuse. You know,
9 these all are part of that data which in a way is
10 related to efficiency of use I guess.

11 Q So your testimony else that someone at
12 DGS was assessing International Paper's over use
13 and under use of specialty chemicals?

14 MR. DALEY: Objection.

15 A That's the testimony of Mark Allen that he
16 was monitoring the use, yes.

17 Q Was he reporting over use and under use of
18 specialty chemicals to someone at International

19 Paper?

20 A I don't know.

21 Q So, if you don't know if he was reporting
22 the over use or under use of specialty chemicals,
23 do you know if DGS was providing the monitoring
24 and analysis of performance data as defined here
25 in paragraph 21?

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1 MR. DALEY: Objection.

2 A Well, it's -- it's all part of the
3 monitoring process. I don't know that I have a
4 specific instance to reference but in an any
5 manufacturing environment, telemetry is used to
6 monitor the process. What's happening in
7 manufacturer.

8 So Mr. Allen and Shiv I think were both at
9 some point involved in looking at the usage rates
10 and so forth. That's how you know when to reorder
11 products or when to adjust the machinery and that
12 sort of thing so I would -- I would say, you know,
13 my expert opinion is that absolutely that was

14 happening in some form or another.

15 There was oversight and monitoring.

16 Q Is your testimony then that Shiv was
17 monitoring usage rates of specialty chemicals?

18 MR. DALEY: Objection.

19 A I -- I don't know that I could point to
20 anything specifically that says that but it's my
21 understanding that Shiv was doing that kind of
22 work prior to Mark Allen coming on board.

23 Q How did you gain that understanding?

24 A Well, Mark Allen's testimony tells me that
25 he was hired by Shiv after the operation was

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1 established, so, there must have been some -- some
2 kind of monitoring going on before he came on
3 board.

4 Q And you also testified that International
5 Paper would adjust the machinery based on the
6 monitoring performed by DGS; is that right?

7 A Well, you know, that's the normal process
8 in manufacturing operations is when you evaluate
9 the data coming off machinery and there's more

10 than expected use or less than expected use, there
11 may need to be some calibration or adjustment made
12 to the machine.

13 Q So your testimony is that someone at DGS
14 was telling International Paper to adjust its
15 machinery based on DGS's telemetry?

16 MR. DALEY: Objection.

17 A I don't know.

18 Q So, how then do you know that DGS was
19 performing to telemetry as its defined here in
20 paragraph 21?

21 MR. DALEY: Objection.

22 A I believe that was what was reported, that
23 telemetry was part of their services this they
24 were offering.

25 Q Who reported that?

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1 A I don't recall. It may have been in the
2 complaint. I don't remember where I read it.

3 Q Would it be somewhere within the documents
4 you reviewed in attachment A?

5 A Probably, yes.

6 Q How did you arrive at this definition of
7 telemetry that's written in paragraph 21?

8 A Well, again, based lots of experience, you
9 know, also it's referenced you can see the
10 references below comes from TechTarget but
11 telemetry and the use of Bluetooth and monitoring
12 equipment in a manufacturing site is very common
13 and in today's environment almost demanded for
14 every machine so if you think about a
15 manufacturing shop floor there are many machines
16 working in conjunction with one another so they
17 have to be synchronized. Usage rates may indicate
18 that there is an issue somewhere. I mean it's a
19 constant battle with many variables in a
20 manufacturing environment.

21 So the use of telemetry, the communication
22 between machines between one another, as well as
23 externally in terms of how the machine itself was
24 doing is just standard operating in a
25 manufacturing environment these days.

↑

1 Q So, as aside from your experience in the
2 source referenced in footnote 2, is there anything
3 else you used to arrive at your definition of
4 telemetry?

5 A No.

6 Q Okay. And how did you locate the article
7 referenced in footnote 2?

8 A Through Google search.

9 Q What did you Google?

10 A Definition of telemetry.

11 Q Okay. Is that something I could also do
12 if I wanted to find out what the definition of
13 telemetry is?

14 MR. DALEY: Objection.

15 A Sure, sure.

16 A My definition you know, could be based on
17 just experience or I can talk about instances, so
18 I used as standard definition enhance my
19 background and experience and confirm what I
20 already know.

21 Q Okay. Would you need to be an expert in
22 supply chain management to locate this TechTarget
23 article and come up with a definition of
24 telemetry?

25 MR. DALEY: Objection.



1 A No.

2 Q Okay. Do you know if the definition of
3 telemetry has provided in paragraph 21 is the same
4 definition of telemetry that was used by DGS?

5 A I don't know.

6 Q Do you know who at DGS performed
7 telemetry?

8 A Well, I know Mark Allen was monitoring
9 information. I don't know who else was doing it
10 but the point I was trying to make in that
11 particular paragraph it's a value-added services
12 that was being provided.

13 Q So do you know anyone besides Mark Allen
14 at DGS who performed telemetry?

15 A I don't know.

16 Q Who at Mid-South performed telemetry?

17 A Again, I don't know but it's not a matter
18 of performing telemetry. Telemetry is a
19 communication system regarding how a machine is
20 operating or what kind of materials are being

21 used. You don't operate telemetry. It's a
22 report.

23 Q Who at Mid-South read the telemetry
24 report?

25 A I don't know.

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1 Q Is it your testimony that Mid-South
2 provided telemetry services to International
3 Paper?

4 MR. DALEY: Objection.

5 A Well, as I stated before, I don't know the
6 details of the business relationship between the
7 companies but I think Mid-South was perhaps the
8 same company, just with a different name for
9 whatever purpose they did that, I'm not sure but I
10 think it was the same people providing services.

11 Q Did Mark Allen work for Mid-South?

12 A In no, I think he work for DGS, but,
13 again, I'm not sure.

14 Q Is part of basis for your testimony that
15 Mid-South's markup is reasonable, that Mid-South
16 provided telemetry services?

17 A I don't know.

18 Q I may not have been clear on that one.

19 As the basis for why are opinion that
20 Mid-South's markup, specialty chemicals that it
21 sold to International Paper, being reasonable is
22 part of that basis for that opinion that Mid-South
23 provided telemetry services?

24 A Again, I don't know if Mid-South was
25 providing reading of telemetry. I don't know.

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1 Q So, if you don't know, you are not relying
2 on Mid-South's alleged provision of telemetry
3 services to opine that Mid-South's markup is
4 reasonable?

5 MR. DALEY: Objection.

6 A Well, it's my understanding they were the
7 same company, just operating under two different
8 names and the people that belong to at least the
9 DGS organization were providing those services, so
10 I don't know how to distinguish that.

11 The point of my comments in my report were

12 that not who was doing what, but that this is
13 value-added services that were being provided.

14 Q How many people work for DGS?

15 A I don't know, a handful.

16 Q Was it less than five?

17 MR. DALEY: Objection.

18 A I don't know. I'm sorry.

19 Q How many people worked for Mid-South?

20 A I don't know.

21 Q Was anyone at DGS a W-2 employee?

22 A I don't know.

23 Q Was anyone at Mid-South a W-2 employee?

24 A I don't know, and that's not relative to
25 my position, not related.

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1 Q Well, how many mills did Mid-South perform
2 telemetry for?

3 A I don't know.

4 Q Did Mid-South perform telemetry for every
5 specialty chemical it sold to International Paper?

6 A First of all, I don't know, if it was
7 Mid-South or DGS, and secondly, yeah, I just -- I

8 don't know. It's not part of my opinion.

9 Q Did DGS perform telemetry at every mill
10 where it sold specialty chemicals to International
11 Paper?

12 A Once again, it's not a performance. You
13 don't perform telemetry. Telemetry is data coming
14 off machinery. And how many places they perform
15 that, I don't know. It's just simply a volume
16 services that was offered by the distributor.

17 Q Did DGS provide value added service of
18 telemetry to every International Paper mill where
19 it sold specialty chemicals?

20 MR. DALEY: Objection.

21 A I don't know.

22 Q Did DGS provide telemetry for every
23 specialty chemical that it sold to International
24 Paper?

25 MR. DALEY: Objection, asked and answered.

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1 A I don't know.

2 Q So if you don't know how many chemicals or

3 how many mills DGS provided value added service of
4 tell mere to International Paper, how do you know
5 that the value added service could be considered
6 as parts of DGS's markup?

7 A Well, it's my understanding from the
8 testimony I read that there -- they were providing
9 those services, at least on some of the production
10 lines and it's clearly a value-added service.
11 Just someone offer the street can't provide that
12 service. You have to have a significant amount of
13 education and experience to read -- read the
14 results. You or I probably couldn't do that. So
15 you know, this is a very big value to
16 International Paper to allow a distributor to read
17 this and to help them monitor their operations.

18 Q Have you seen one of the emails going to
19 Mark Allen with the telemetry report?

20 A I don't remember if I saw it or not.

21 Q Do you know what kind of contents were on
22 that telemetry report?

23 A I don't know but I've seen telemetry
24 readings before, and it's a lot of data that has
25 to be interpreted by an engineer.



1 Q So your testimony is that the telemetry
2 reports going to DGS have a lot of data that have
3 to be interpreted by an engineer?

4 MR. DALEY: Objection.

5 A Yes in this case a chemical engineer, yes.

6 Q So I couldn't read a telemetry report from
7 DGS and be able to understand what's being stated?

8 MR. DALEY: Objection.

9 A Probably not. So I mean you could read it
10 but you wouldn't know how to interpret it or what
11 to do as a result of reading it. It's not -- it's
12 not a foreign language but it's also not -- it's
13 not basic. I mean you have to have an
14 understanding of the chemical uses by machine in
15 order to interpret the results.

16 Q Is telemetry different from monitoring
17 inventory levels as provided in paragraph 21?

18 A Yes.

19 Q How are they different?

20 A A telemetry, again, is a reading that
21 comes off a machine via the internet usually.
22 Most machines are connected via Bluetooth these
23 days so that data comes off the machinery tells

24 you how the machine is operating and how much
25 product is being used, and so forth.



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1 Inventory levels could be -- that's a
2 completely different idea. That's you know what
3 being stored, what's available, what's low, what's
4 high. That's something completely different. Not
5 the operation of the machine.

6 Q What is monitoring of the inventory levels
7 used for?

8 A All kinds of things, so you -- the idea is
9 you want to have just enough inventory in order to
10 feed your production line and perhaps plan for
11 some downtime, or some additional use. But not so
12 much inventory that you've over invested working
13 capital and got stuff sitting on the shelf. You
14 don't want that either. So managing the inventory
15 is a fairly analytical and complex process to
16 determine minimum order quantities, high and low
17 levels, replacement quantities.

18 And then adding the variables such as

19 climate or any kind of disruption that might go
20 on. There is -- it's just a -- it's a very
21 analytical approach to managing raw materials.

22 Q You testified previously that in order to
23 perform the telemetry service, that DGS provided,
24 someone would need to have a chemical engineers
25 degree; is that right?

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1 MR. DALEY: Objection.

2 A Yes, or you know many years of experience
3 in -- in reading telemetry results, the data, yes.

4 Q Is reading telemetry results and data time
5 consuming to process?

6 A I suppose. I don't know how to interpret
7 those results. I've looked at them and they don't
8 mean anything to me but I would imagine somebody
9 with experience in the background in chemical
10 engineering would have to analyze the results and
11 try to understand the causes and effects of what
12 the data is telling you.

13 Q Do you know how long every single day it
14 took Mark Allen to perform his work for DGS?

15 A I'm sorry, can you say that again?

16 Q Do you know how long it would take Mark
17 Allen to perform his duties for DGS on a daily
18 basis?

19 A No, I don't know.

20 Q Do you know how much Mark Allen made?

21 A No.

22 Q You can -- I would not click out of
23 Exhibit 1 because we will return to it. But,
24 maybe just minimize it and?

25 MR. TOWNSEND: Kieran, we are going to go

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1 ahead and pull up Exhibit 1, Mark Allen
2 transcript, if you could put that in the chat,
3 please.

4 A/V TECHNICIAN: This is in the chat and
5 counsel are we marking this as Exhibit 2.

6 MR. TOWNSEND: Yes, that would be great.

7 (Marked for identification Exhibit 2.)

8 Q Ms. Coates, if you could open Exhibit 2
9 up. It may take a moment. It's a transcript so

10 it's a little long, just let me know when you have
11 it.

12 A Okay. Hold on a minute.

13 A Sorry, this is a little clunky to do it
14 this way.

15 Q Really?

16 A Yeah. Let's see if I can find it in
17 downloads. That's not it. May be still
18 downloading. Sorry.

19 Q That's all right.

20 A Yeah. Here we go. Finally, it came up.
21 I got it.

22 Q Okay. Ms. Coates, you mentioned
23 previously that you had reviewed the transcript of
24 Mark Allen's testimony; is that right?

25 A Yes. I didn't read it page for page but I

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1 have a general review of it, yes.

2 Q And as far as you understand, is that what
3 we're looking at now? Are we looking at Mark
4 Allen's transcript?

5 A Yes.

6 Q All right. Please go down to page 41, on
7 line 20. Let me know when you get there.

8 A I'm there.

9 Q The beginning on line 20 the question
10 reads: And could you give me your definition of
11 what remote telemetry is.

12 Is that right?

13 A Yes.

14 Q And then Mark Allen answers: There is an
15 instrument on the tank that measures the tank
16 level and it -- that instrument sends the
17 information to the PI. And PI would email me what
18 that level was; is that right?

19 A Yes.

20 Q So is Mark Allen's definition of telemetry
21 monitoring tank levels?

22 A Yes, in this instance, yes. That's --
23 that's what I testified to before it is monitoring
24 data off machinery so tank levels would be one of
25 the machines that would be looked at and have



1 monitoring equipment on it.

2 Q Did Mark Allen monitor anything else
3 beside tank levels?

4 A I don't know.

5 I would add so that the tank level -- it's
6 not taken in isolation of just, you know, what the
7 level is. It has to be in conjunction with how
8 the machinery are using it on the production line.
9 It's a little more complicated than you know, just
10 having to look at what it level at 2 or a level at
11 10, or it's more complicated than that.

12 Q So, your testimony is that Mark Allen's
13 work in telemetry was more complicated than just
14 looking at the level that was sent to him; is that
15 what you're saying?

16 MR. DALEY: Objection.

17 A Normal circumstances a technician like
18 this would interpret the data and then work with
19 the engineers on the production line, the
20 manufacturing engineers, to make adjustments in
21 machinery, or adjustments in the inventory levels,
22 or whatever needed to happen from there. So it's
23 a data and then interpretation related to
24 solutions.

25 Q Did Mark Allen work with engineers to make

1 adjustments based on his readings of the data?

2 A I don't recall if he testified to that
3 but, yes, I mean, that's the way it works is you
4 know, once you read the data and need to make
5 adjustments to use it or, you know, something
6 else, the temperature, that's that sort of things
7 yes that information would be fed back to the
8 manufacturing/engineering department.

9 Q So your testimony under oath is that Mark
10 Allen would feed information back to the
11 engineering department of International Paper?

12 MR. DALEY: Objection.

13 A Yeah, my testimony is that's normally the
14 way it would happen, yes.

15 Q Well, I understand normally the way but is
16 that what DGS was doing?

17 A I don't recall if I read that or not, but,
18 yes, one again, that would be the way it would
19 work, yes.

20 Q Did DGS calibrate International Paper's
21 chemicals based on weather, storage and other

22 variables?

23 A Probably. There are many variables in
24 chemicals. As I mentioned before hot temperature
25 is going to make the chemicals expand. It's like

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1 gasoline in the summer when you buy gasoline it
2 expands and so you don't fill up your tank quite
3 as high because there is expansions involved.

4 The same thing in other chemicals, there
5 is a weather related activity, there is purity
6 measures. There's, you know, machine usage. All
7 kind of variable s that need to be considered and
8 that's the duty of chemical engineer to understand
9 that and to work with conjunction with
10 manufacturing engineer for a solution.

11 Q Okay. So DGS performed that service, is
12 that what you're saying?

13 MR. DALEY: Objection.

14 A Yes.

15 Q Flip down to page 43, beginning on the
16 first line. Just let me know when you're there

17 Mark Allen?

18 A Okay.

19 Q Start from line 2 since it's easier, would
20 you ever assist the mills with calibration of
21 chemicals based on things like weather, storage or
22 area variables.

23 Did I read that right?

24 A Yes.

25 Q And Mark Allen says "no," correct?

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1 A He says no, because it's not his job.

2 That's manufacturing engineering's job.

3 Q But didn't you justice testify that the
4 job of the DGS was to perform calibration of
5 chemicals based on things like weather, storage
6 and other variables?

7 A No, I didn't testify to that at all. What
8 I said is that Mark Allen would help with the
9 monitoring and interpretation and then work with
10 manufacturing/engineering to make the adjustments.
11 He wouldn't be doing the adjustments himself, no.

12 Q So your testimony is that he would work

13 with the engineering department to perform the
14 chemical calibration of chemicals based on thing
15 like weather, storage or other variables.

16 MR. MURPHY: Objection.

17 A Well, he wouldn't do the calibration. He
18 would be -- he would use his knowledge,
19 experience, education to help with the
20 interpretation of what to do, no who would do it
21 and -- and you didn't do it but what to do so
22 based on that knowledge and experience he would
23 give advice to manufacturing/engineering.

24 Q Who did he give advice to?

25 A Manufacturing/engineering.

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1 Q What names?

2 A I don't know.

3 Q But your testimony is that he did speak to
4 an engineer at International Paper, that's what
5 you're saying?

6 A Yes. As I recall his testimony was that
7 he had worked at International Paper and knew the

8 people and the processes and interacted with them,
9 yes.

10 Q Did DGS own any vehicles?

11 A I don't know.

12 Q Did DGS own any real estate?

13 A I don't know.

14 Q Did DGS ever take possession of the
15 chemical that it was selling to International
16 Paper?

17 A I don't know for sure but probably not.
18 That's not normally the way a distributor would
19 work.

20 Q Did anyone else at DGS perform the
21 calibration of chemicals based on thing like
22 weather, storage or other variables?

23 A I don't know, but that would be typical
24 part of the operation of a distributor, but I
25 don't know.

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1 Q Okay. So so you don't know if someone at
2 DGS did the actual calibration of chemicals based
3 on things like weather, storage or other

4 variables?

5 A The calibration of chemicals?

6 Q Correct.

7 A I'm not sure what you mean by calibration
8 of chemicals.

9 Q Well, Ms. Coates, you tell me, what is
10 calibration? It's a word you use in your report?

11 A Calibration is related to machinery, so
12 it's, you know, making adjustments to machinery to
13 make sure it's accurately reporting.

14 Q So did anyone at DGS perform calibration
15 as you just defined it?

16 A I don't know for sure but I don't believe
17 so. Calibration on machinery would be done by
18 manufacturing/engineering on the shop floor or the
19 production floor.

20 Q Okay. Let's look at page 43, line 6, you
21 should still it have up. The question says: Do
22 you know if that's something DGS did generally.

23 Did I read that right?

24 A Yes.

25 Q Then Mark Allen says no. Yes I know we



1 didn't do it, is that right?

2 A Yes.

3 Q Okay.

4 A And that's what I would expect. He's not
5 -- it's not the machine calibration guy. DGS
6 doesn't do machine calibration. That's not part
7 of their services.

8 Q Okay. Do you still have Exhibit 1, which
9 is your report available to you?

10 A Yes.

11 Q All right. Let's flip back to your report
12 now. We're tax on Exhibit 1. If you can go to
13 page 110 on paragraph 32.

14 A Okay.

15 Q So it reads: Based on my 40 years of vast
16 global experience with dozens of manufacturers, I
17 could confirm that value-added services such as
18 coordinating the order details, coordinating
19 factory deliveries, monitoring and managing
20 inventory levels, analyzing telemetry data and
21 calibration of chemicals based on weather,
22 storage, and other variables are all typical and
23 common examples for distributors in the chemical

24 industry.

25 These are the all value-added services

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1 provided by DGS and Mid-South?

2 Did I read that correctly?

3 A Yes.

4 Q So in your expert report you are saying
5 value added serviced provided by DGS and Mid-South
6 include the calibration of chemicals based on
7 weather, storage, and other variables.

8 Am I right?

9 A Yes.

10 Q So based on your testimony you just
11 provided, this statement is not accurate, correct?

12 MR. DALEY: Objection.

13 A Yeah probably calibration may not be the
14 correct term there but calibrating the amount of
15 chemicals or making adjust measurements, I guess
16 to the chemicals would be better way to explain
17 it.

18 Q How did -- well, actually let me bark up,
19 tell me what is coordinating order details? What

20 is that?

21 A Well, in most distributor and procurement
22 environments there's a -- there are requisitions
23 that are generated at the buyer site saying what
24 products of raw materials are needed, and then the
25 buyer places an order for those products. With



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1 the distributor.

2 Then the distributor may have to find a
3 chemical manufacturer. They may use one they have
4 used before. They may have a food vendor list
5 from International Paper and they go to those
6 vendors.

7 They coordinate time and materials and
8 delivery, and organize the purchase of those
9 products to arrive on time for production at
10 International Paper.

11 There's a lot of looking at schedules,
12 making phone calls, coordinating you know, what is
13 available, finding those chemicals, arranging to
14 purchase them, arranging for the final delivery.

15 There is quite a bit of administrative
16 work in that regard.

17 Q Would International Paper arrange for the
18 supply are its specialty chemicals with the
19 specialty chemical manufacturer?

20 A I'm sorry, I couldn't -- did you say rely
21 -- I can't hear that.

22 Q Sorry. Would International Paper arrange
23 for the supply of specialty chemicals with the
24 manufacturer of the specialty chemicals?

25 A Yeah, so sometimes -- so this is another

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1 common process in procurement is the ultimate end
2 user, the buyer in this case, International Paper,
3 would sometimes negotiate contracts with the -- a
4 manufacturer, and then they hand off the order
5 processing part to a distributor.

6 So they have what they called approved
7 vendor list, and sometimes have negotiated rates.
8 And then the distributor steps in and arranges the
9 individual procurement -- the individual purchase
10 orders or individual deliveries, makes, you know,

11 makes logistics arrangements.

12 Q Is that what took place in this case for
13 International Paper with its specialty chemicals?

14 A Yeah. I believe I read somewhere that
15 this were some negotiations and approved vendors
16 by International Paper. I'm not sure it happened
17 in every situation but I think it what -- that was
18 done in some cases, and that's a fairly common
19 process.

20 Q So, in this situation that you just
21 described, the service that distributor is
22 providing is -- the order processing part; is that
23 right?

24 A Yes, and yes, and by individual purchase
25 orders, so, you know, International Paper may have

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1 been negotiating some -- the annual usage so they
2 might need 100 tons of something annually, and
3 then the distributor takes individual purchase
4 orders so in January they need 8 tons and in
5 February they need 2 tons and in March they need

6 12, so forth so their individual purchase orders
7 as needed to keep the production line going, and
8 the distributor manages that process.

9 Q In that scenario, what is the distributor
10 doing that International Paper couldn't do itself?

11 A Basically nothing. If International Paper
12 chose to hire a bunch of people to monitor, to you
13 know chemical engineers to evaluate order
14 processing people, I mean, they are essentially
15 placing orders through the distributor has an
16 outsourced service provider, so they could
17 probably do all of that stuff themselves but they
18 choose not to and instead pay a vendor to do it
19 for them.

20 Q So International Paper still spending
21 money to place orders, it's just they are spending
22 the money to place orders with the distributor
23 instead of manufacturer; is that right?

24 A They are sending money? Say that again.

25 Q Yeah. International Paper is still

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1 spending money to place orders, it's just they are

2 spending the money to place orders with a
3 distributor rather than the manufacturer; is that
4 right?

5 MR. DALEY: Objection.

6 A Yes, in a way. I mean so they are placing
7 order through the distributor but you know, as
8 we've been talking about, there are many other
9 value-added services that are being provided in
10 addition to just order processing.

11 Q Would it be fair to say that the value of
12 the order processing that DGS provided would
13 equate to the cost of the time DGS expended to
14 arrange for the purchasing?

15 MR. DALEY: Objection.

16 A No. I think it's way more complex than
17 that. I mean, these are -- these are orders for
18 chemicals. They are specialty chemicals and in
19 order to process an order like that you have to
20 have knowledge and experience to understand what
21 it is, you know, where it's going to be used, how
22 much inventory you need to sustain a machine. I
23 mean there is much more context around a chemicals
24 environment than there would be if you were just
25 ordering paper clips or something like that.



1 Q So your testimony is that the order
2 placement DGS engaged in required education in
3 chemistry?

4 MR. DALEY: Objection.

5 A Yeah, I would say probably education
6 and/or experience in the chemicals industry, yes.

7 Q Do you know the level of education of
8 Jyotika Balsara?

9 A I'm not sure, no. I think Mark Allen
10 testified he thought she was an engineer.

11 Q I remember her testifying that she only
12 got a high school degree. Do you recall reading
13 that on your transcript?

14 A I don't remember, no.

15 Q Do you recall that Ms. Balsara said that
16 she had had to knowledge of chemistry, do you
17 recall seeing that on her transcript?

18 MR. DALEY: Objection.

19 A No, I don't remember.

20 Q Who at DGS was placing the orders?

21 A I don't know.

22 Q Was its Jyotika Balsara?

23 MR. DALEY: Objection.

24 A It could be. You know, based on the
25 interpretation of what to order appear so forth.

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1 Anybody could act as that -- in that
2 administrative role.

3 Q So does it administrative role is
4 different from what you just described as the role
5 that requires a degree in chemistry, is that what
6 I'm understanding from you?

7 A I didn't put it that way and I wouldn't
8 put it that way. I mean this is a process, so,
9 you know, what kind of inputs they got from, from
10 Mark Allen or from Shiv regarding you know usage
11 or that sort of thing ultimately they might hand
12 off after they made that interpretation hand arch
13 the information to someone else to place the
14 actual order, but you know, you can't -- you can't
15 put it in a box like that just saying that, one
16 person is placing the orders with no context.
17 There's broader business context and technical

18 context involved in processing those orders.

19 Q Tell me how DGS processed orders for
20 International Paper? What was involved?

21 A I don't know. I didn't exam the actual
22 process.

23 Q So, you don't know how DGS coordinated
24 order details as you provide in paragraph 32?

25 A Well, yeah, I didn't look at their process

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1 document, how they place orders or if they even
2 have one. But, certainly you know based on the
3 information and the testimony, I don't recognize
4 what that process is. And it is you know
5 accepting information from International Paper,
6 monitoring the requirements, and then executing
7 those orders with manufacturers.

8 Q What testimony that you saw provides the
9 basis for your opinion?

10 A Well, I think in general, the testimony of
11 Mark Allen certainly, and then Shiv's statement.
12 There is -- there's you know information in emails

13 and -- and other documents that I looked at, that
14 you know, reflect information regarding orders.

15 Q What twas Shiv's statement?

16 A Yeah, I was going to say I don't -- I
17 didn't read anything from him. I mean that was
18 part of criminal case, I guess, and out of scope
19 for what I was looking at but I think I read some
20 -- from the Court documents the filings, maybe a
21 complaint, information regarding what happened,
22 so...

23 Q So there was no Shiv statement that you
24 read or there was?

25 MR. DALEY: Objection.

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1 A I don't think, yeah, I don't think I read
2 any statement from him.

3 Q And you say the testimony of Mark Allen
4 provided the process for coordinating the order
5 details as well; is that right?

6 A I think that was context but then you
7 know, I reviewed a lot of exhibits and other
8 documents related to ordering details so I don't

9 know if there was any place that specifically laid
10 out the order process but it's -- it's all party
11 of the body of information that I reviewed and how
12 I formed my opinion.

13 Plus, you know, just having experience and
14 knowing how distributors work, it's pretty common
15 knowledge.

16 Q Those documents that you reviewed as part
17 of the body of knowledge, are all of those in
18 attachment A?

19 A Yes.

20 Q So if I were to go through and review all
21 the documents in attachment A, I would be able to
22 identify the value-added service that DGS provided
23 of coordinating order details?

24 MR. DALEY: Objection.

25 A Yes, I think you could assemble a story

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1 about value-added services, and processing orders
2 and information from -- from all of those
3 documents, yes.

4 Q So was processing orders by DGS more
5 complicated than someone at International Paper
6 emailing Jyotika Balsara and saying we need 100
7 pounds of this specialty chemical and Jyotika
8 Balsara forwarding the email to the chemical
9 manufacturer.

10 Was there more to it than that?

11 MR. DALEY: Objection.

12 A Women, sometimes, yes and I think it's
13 important to recognize that even when you simply
14 forward information you do that within the context
15 of understanding the chemical industry, how it
16 works. You know I'm sure she had background in
17 placing orders prior to that, or you know, in or
18 orders. She may settle asked questions bit unless
19 you look at the individual transaction but it's
20 more to it than just pass through information.

21 As Mr. Glasser suggests, this is not
22 simply a passing-through paper. This is a
23 chemical engineering environment, which requires a
24 lot lot of expertise.

25 Q Expertise did Jyotika Balsara have?

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1 A I don't know. So, she may not have had a
2 chemical engineering degree but she might have had
3 experience or certainly learned from a chemical
4 environment. I don't know what she brought to the
5 table.

6 Q But you say it is more than just a
7 passthrough, right?

8 A Well, yeah. She may have spoken with
9 someone about the order. She may have asked for
10 interpretation. Who knows. I -- unless you know
11 I saw some evidence in that regard, I don't know
12 if she did or she didn't.

13 Q Is it your opinion that Mid-South was a
14 real distributor?

15 MR. DALEY: Objection.

16 A I don't know. It's my understanding these
17 were the same people running both companies just
18 under different names.

19 Q Is it your opinion that DGS was a real
20 distributor?

21 A Can you define what you mean by real?

22 Q Did DGS do more than engage in a conflict
23 of interest with a buyer from International Paper
24 to obtain a markup of 21 percent on every single

25 specialty chemical item it purchased from chemical

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1 manufacturers without doing anything other than
2 occasionally reading a tank level monitor and
3 forwarding orders from International Paper to the
4 chemical manufacturers?

5 MR. DALEY: Objection.

6 A Okay. So that kind of a long question.
7 Let me try to remember it all, break it down so
8 first of all, I don't think this was a standard 21
9 percent. Even Mr. Glasser who is an accountant
10 was able to show in some cases it was higher and
11 over all, on average, based on his numbers, markup
12 was 19 percent.

13 That was the average.

14 But there is likely to be changes in the
15 markup amounts depending on what's being acquired.
16 There might be a sale on a specialty chemical and
17 then you make a bigger margin, or there might be,
18 you know an end of life of a chemical, and it's
19 expensive because of that.

20 So, who knows. We have to exam every
21 single individual transaction to understand
22 whether the markup was promote or typical or there
23 was extenuating circumstances.

24 Now, I don't remember the other half of
25 your question.

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1 Q You know, it was a long one I was trying
2 to define what I meant by what is a real
3 distributor. So maybe I'll just try again based
4 on my attempt at definition.

5 Is DGS a real distributor?

6 MR. DALEY: Objection.

7 A I'm sorry, I don't know what you mean by
8 real physically, yeah, they exist, or did exist.
9 I don't know if you mean that's what is real, or
10 I'm not sure.

11 Q Sure. Yeah. It's a tough word. How
12 about is DGS more than a sham entity?

13 MR. DALEY: Objection.

14 A Absolutely. Absolutely. They provided
15 lots of services, value-added services. They

16 existed. They were real people. They had a real
17 company. They had real chemical engineers that
18 had background in this industry. They provided
19 ordering services. My understanding is they
20 negotiated with manufacturers from time to time.

21 They visited plants. They did you know
22 valuation. They read telemetry. Those are all,
23 you know, very valuable value-added services.

24 Q What did Shiv do for International Paper?
25 What value-added services did Shiv provide to

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1 International Paper?

2 A I'm not sure. I do know that he chemical
3 engineer by training. So I don't know how he
4 interacted with the people in his own company or
5 with International Paper. I'm not sure about that
6 but he certainly has the background to be involved
7 with this kind of ordering process.

8 Q In paragraph 32 you note in a Mr. Shiv
9 Kumar had a PhD in chemical engineering, am I
10 right on that?

11 A Yeah, I was corrected after I submitted
12 this report. Apparently he's got an undergraduate
13 in chemical engineering and two master's degrees.
14 One from a university in India, which sort of is
15 interpreted as a PhD, but, may not be I guess just
16 a master's degree, but certainly a lot of
17 background and education in chemical engineering
18 for sure.

19 Q Why did you put PhD in chemical
20 engineering in your report?

21 A I don't know. At the time I thought he
22 had a PD and, you know once again, often in my
23 experience, often people who get advanced degrees
24 in India, once they pass the bachelor's level,
25 sort of everything after that is a PhD kind of

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1 term that they use, so somewhat different than
2 what we would qualify for in the U.S.

3 Q Yeah. But what document told you that he
4 has a PhD in chemical engineers? Did you call him
5 up? How did you figure that out?

6 MR. DALEY: Objection.

7 A I don't remember. Must have been in
8 something I read or or reviewed in some way or
9 another. I'm not sure.

10 Q Okay. Do you think it was a document from
11 DGS that listed him with a PhD in chemical
12 engineering?

13 A I don't know.

14 MR. TOWNSEND: Kieran, let's go ahead and
15 pull up Exhibit 4 November 4th, 2019 PowerPoint.

16 A/V TECHNICIAN: I put it in the chat.
17 It's loading.

18 MR. TOWNSEND: This one is also a little
19 large. It may take us little while. After this
20 one we should have smooth sailing.

21 MR. DALEY: I'm going to hold you to that,
22 Nate.

23 MR. TOWNSEND: Oh-oh.

24 A/V TECHNICIAN: It should be available in
25 the chat for everyone.

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1 MR. TOWNSEND: Thank you.

2 Q Ms. Coates, if you haven't already
3 started, if you could download that and start the
4 process of opening it up. It may take a few
5 minutes. It's taken me a few minutes, at least.

6 A Okay.

7 A Okay, I've got it.

8 Q Great. Have you seen this document
9 before?

10 A Yes, I believe this is one that I
11 reviewed.

12 Q And is this -- if you can remember -- the
13 same document that you cite at footnote 19 of your
14 report?

15 A It's number 163?

16 (Marked for identification Exhibit 4.)

17 Q That base label is not going to align. I
18 just realized that, but you know if max will allow
19 it I am going to represent to you that this is the
20 same document and it sounds from what I -- from
21 what you just said have you seen it before; is
22 that right?

23 A Yeah. I've seen JAG.INS.000014. That's a
24 document that I reviewed. Is this the same
25 document, is that what you're saying?

1 Q Yes, it is.

2 A Okay.

3 Q And so, as you can see in this very first
4 page this is a PowerPoint with, Inc. name it on
5 right?

6 A Yes.

7 Q Written on November 4th, 2019?

8 A Yes.

9 Q If we can go down on point 4. Let me know
10 when you're there?

11 MR. TOWNSEND: Is that the one that says
12 team?

13 Q Yes.

14 A Somehow I can't read the page numbers on
15 this thing.

16 Q Oh, okay. Well, going forward I'll just
17 let you know what heading is yes, it is the one
18 that says team.

19 A Okay.

20 Q Ms. Coates, who is Scott Minter?

21 A I don't know.

22 Q Did he work for DGS?

23 A That's what it looks like but I don't know
24 for sure.
25 Q So it looks like that is it possible that



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1 that is not accurate?
2 MR. DALEY: Objection.
3 A I have no way of knowing.
4 Q Well, why would someone put Scott Minter's
5 name on the team listed with all the other DGS
6 people?
7 MR. DALEY: Objection.
8 A I have no idea. I don't know why.
9 Q Did Joe Arnold work for DGS?
10 A I don't know.
11 Q Is Joe Arnold a real person?
12 MR. DALEY: Objection.
13 A I have no idea.
14 Q Does Preston Tynes work for DGS?
15 A I don't know.
16 Q So, how many people worked for DGS as of
17 November 4th, 2019?

18 MR. DALEY: Objection, asked and answered.

19 A Yeah, as I testified before I don't have
20 any idea. I don't know.

21 Q So if you don't know how many people work
22 at DGS, how do you know they were performing all
23 value-added services you described in paragraph
24 32?

25 MR. DALEY: Objection.

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1 A I described in paragraph 32 the common
2 services are provided by a distributor, and a
3 chemical distributor in particular, would give
4 context to it.

5 Who the people were, they were 1099
6 employees, or W-2 employees, or any of that, I
7 don't know. It's just out of scope for what I was
8 asked to provide an opinion on.

9 Q But you did more than that you also said
10 that these are services provided by DGS/Mid-South,
11 right?

12 A Yes.

13 Q Okay. So it's not just services provided

14 by your typical chemical distributor, right?

15 A I'm not sure what you mean by typical
16 chemical distributor. Distributors are not all
17 that typical. They are not standard, anyway.

18 Q Ms. Coates, flip down to the next page,
19 heading reads current presence distribution in
20 manufacturing centers?

21 A Okay.

22 Q So did DGS have a distributor and
23 manufacturing center in Burlingame, California?

24 A I don't know.

25 Q Will it says so here, right?

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1 MR. DALEY: Objection.

2 A Well, that's what says, sure, but, you
3 know, they may have a network partner or you know,
4 it's not unusual to see companies describe
5 partnerships or their distribution network through
6 you know, partners or outsource providers.

7 Q Who was the network?

8 A I don't know I don't know what the answer

9 to that question.

10 Q First of all, who is the network partner?

11 You say they may have a network partner?

12 MR. DALEY: Objection, asked and answered.

13 A Once again I don't know what their
14 business setup was like. That's out of scope for
15 what I was asked to opine on.

16 Q So you are just speculating?

17 MR. DALEY: Objection.

18 A I was just giving you an opinion on what
19 I've seen in the world.

20 Q Did DGS have a distribution and
21 manufacturing center in Nanjing, China?

22 A I don't know. Yeah, my opinions, based on
23 my experience they probably had a partnership or
24 some kind of manufacturer there that they source
25 from.

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1 Q So based on your experience, you say they
2 probably had a partner, is that what I just heard?

3 A A partner or some kind of supplier, yeah.

4 Q Who was that?

5 A I don't know. I just said based my
6 experience, that's very likely.

7 Q So is your experience just speculation?

8 MR. DALEY: Objection.

9 A It's not speculation. My experience is
10 hard core what I've seen happen, and in chemicals
11 in particular, Nanjing is a very industrialized
12 city in China near Shanghai, about an hour from
13 Shanghai.

14 Shani, India is another sort of chemical
15 producer environment so it's quite possible they
16 were sourcing from those places whether they were
17 partners or sources I don't know.

18 Q You say it's quite possible they were
19 sources.

20 Is it quite possible they were sourcing
21 from those places to tell to International Paper?

22 A I -- I suppose because think think they
23 were pretty captive to International Paper.

24 Q How many customers -- I'm sorry, go ahead?

25 A Yeah, I don't know for sure. I didn't see

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1 any evidence regarding that.

2 Q How many customers did DGS have?

3 A I think International Paper was perhaps
4 their only customer, although I think I read
5 somewhere that Mid-South was created to serve
6 other customers so, possible they had others but I
7 don't have any firm answer for that question
8 either.

9 Q You say you think read something that
10 Mid-South was created to serve other customers, do
11 you recall what document that was?

12 A I don't, no.

13 Q Do you recall who the other customers
14 were?

15 A No.

16 Q What was the distribution and
17 manufacturing center that DGS had in South
18 Carolina?

19 A I don't know.

20 Q Did DGS have any manufacturing or
21 distributor center as provided on this slide?

22 A I don't know. I don't have any way of
23 knowing that information and that was -- that's
24 out of scope for what I was asked to opine on.

25 Q Well, you've been asked to opine and you

Page 90

1 have opined that DGS provided value-added
2 services, right?

3 A Yes.

4 Q So, was one of value-added services acting
5 as a distributor?

6 A Well, not acting as. They are a
7 distributor.

8 Q Okay. So but they didn't have any
9 distribution centers, that is your testimony?

10 MR. DALEY: Objection.

11 A It's -- a little bit apples and oranges.
12 Distribution centers are usually places where you
13 like Target or Wal-Mart has a distributor center
14 and they distribute to their stores from there.

15 That's not what happens in the chemicals
16 industry, so it's not likely that a distributor
17 would have that kind of distribution center. They
18 would be placing orders only as needed, not
19 stocking inventory somewhere.

20 Q It might be a little difficult to find but

21 if you could flip down to page 14, the slide says
22 DGS to foamer team.
23 A Okay.
24 Q See the top left it says, CEO PhD chemical
25 engineering.



Page 91

1 Do you see that?
2 A Yes.
3 Q And the email below says Shiv Kumar at
4 Diversified Global Sourcing, Inc. start?
5 A No. It says Shiv Kumar at
6 DiversifiedGlobalSourcing.com.
7 Q You're right. That was a test.
8 A Good. I thought I passed.
9 Q Is this where you determined that Shiv had
10 a PhD in chemical engineering?
11 A It's possible that I read that, but you
12 know once again I think it's somewhere
13 interpretive in terms of how degrees are
14 recognized in India.
15 Q Well, do you know that Shiv testified that

16 he did not have a PhD?

17 A I don't know.

18 Q You didn't read the CEO of DGS's testimony
19 before coming in to testify on whether or not DGS
20 was a legitimate value-added distributor?

21 MR. DALEY: Objection, asked and answered.

22 A Yeah, once again I'm not sure what you
23 mean by legitimate. That's -- you have to define
24 that nor me if you want me to answer that
25 question.

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1 Q You didn't read the testimony of the CEO
2 of a company that you say provided value-added
3 services to International Paper?

4 MR. DALEY: Objection, asked and answered.

5 A It's my understanding that testimony was
6 related to the previous case, not in this case, so
7 it was out of scope for what I was asked to
8 evaluate so the answer to that is no, I did not
9 read it.

10 Q Do you real lied that he testified last
11 week in this case?

12 A Did I what? Did you realize that Shiv
13 testified last week in this matter.

14 A No, I didn't know that.

15 Q Do you realize that Shiv Kumar employed
16 the Fifth Amendment when asked what value-added
17 services DGS provided?

18 A No, I was not aware.

19 Q Is that that the sort of thing a
20 distributor who provides value-added services
21 normally does?

22 MR. DALEY: Objection.

23 A I have no idea.

24 Q How many distributors that you know of has
25 the CEO pled the Fifth Amendment?

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1 MR. DALEY: Objection.

2 A I -- I haven't been involved in any cases
3 like that, so I don't know.

4 Q One more question on this document,
5 Ms. Coates.

6 If you can go down to page 17, it says

7 about DGS Nanjing. Let me know when you're there.

8 A Okay.

9 Q Okay. The at the bottom of this slide it
10 says 2,000 customers worldwide.

11 Do you see that?

12 A Yes.

13 Q The previous testimony was that DGS only
14 had one customer, right?

15 MR. DALEY: Objection.

16 A Yes, this is regarding a manufacturing
17 site in Nanjing and who knows how many customers
18 they would have.

19 Q So is it your testimony that DGS had a
20 manufacturing site in Nanjing?

21 MR. DALEY: Objection.

22 A Based on my experience, they were sourcing
23 from a manufacturing plant in Nanjing.

24 Q And they were sourcing from a
25 manufacturing plant in Nanjing, they didn't have a



1 manufacturing plant in Nanjing?

2 A That's very, very typical that companies

3 would have a partnership with a manufacturer in
4 China, so they don't necessarily and usually don't
5 own the factory but they are partnered with them,
6 so, you know some kind of arrangement where they
7 are sourcing from that factory.

8 Q Who are they sourcing to besides
9 International Paper?

10 A Objection.

11 MR. DALEY: Objection.

12 A Who was who sourcing to.

13 Q Who was DGS sourcing to beside
14 International Paper?

15 MR. DALEY: Objection.

16 A Well, that's a funny way of putting it.
17 So sourcing meanings buying. So it looks to me
18 like they may have been sourcing or buying from a
19 factory in Nanjing and then reselling to
20 International Paper for certain chemicals. That's
21 what looks like to me. I'm not sure I know for
22 sure.

23 Q Okay. Besides International Paper, who
24 are they reselling to?

25 A I don't know.

1 Q But it says here this are 2,000 customers
2 worldwide, right?

3 A No.

4 MR. DALEY: Objection.

5 A Sorry.

6 MR. DALEY: Objection, asked and answered.
7 You can answer.

8 A No, that's not what that I said. This
9 looks to like their -- this is my opinion, not
10 based on any factual information but my opinion
11 and what I have seen over and over in sourcing in
12 China, which I've worked in that industry for 20
13 years just in sourcing in China, so it looks to me
14 like they were a sourcing from a manufacturer in
15 China, maybe had a partnership with them and that
16 manufacturer in China had 2,000 customers. They
17 are not representing DGS has 2,000 customers.

18 Q Where's the partner's name on this slide?

19 MR. DALEY: Objection.

20 A It doesn't look like it's listed anywhere.

21 Q It just has DGS, doesn't it?

22 A Yeah.

23 MR. DALEY: Objection.

24 A Yes, but that would be on purpose. They
25 don't want any DGS customers to intermediate and

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1 go direct to any kind of manufacturer so that's
2 usually protected information.

3 Q International Paper didn't know the
4 chemical manufacturers?

5 A That's possible, yes.

6 MR. DALEY: Objection.

7 (The court reporter asked for clarification.)

8 MR. DALEY: I'm sorry, I was just saying
9 objection to Nate's question prior to the answer.

10 Q Ms. Coates, did International Paper know
11 the existence of Nalco?

12 A I believe they were listed Nalco, yes.

13 Q Did he know the existence of Kamira?

14 A I think that was one of the companies that
15 was listed, yes.

16 Q Did he though the existence of Ollen?

17 A Yes.

18 Q Did they know the existence of Sollenous

19 (phonetic)?

20 A I believe so, yes.

21 Q Did they know the existence of

22 Georgia-Pacific?

23 A Yes.

24 Q Who among the manufacturers at DGS

25 purchased from did International Paper not know

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1 about?

2 MR. DALEY: Objection.

3 A I don't know -- I don't know, but it

4 wouldn't be -- it wouldn't be unusual. I would be

5 surprised by that, sometimes a distributor sources

6 from places that are not identified on purpose

7 because that information is protected.

8 In other cases, they are buying from an

9 approved vendor list by, in this case,

10 International Paper. Just it's -- you know there

11 are a lot of different models and there are no

12 strict guidelines or requirements in general in a

13 sourcing kind of environment like this.

14 Q You mentioned previously that you had a
15 lot of experience in sourcing in China; is that
16 right?

17 A Yes.

18 Q Did you ever hear of DGS before this case?

19 A Nope.

20 Q It says DGS has 2,000 customer, right?

21 MR. DALEY: Objection.

22 A I don't think so. You know, based on
23 experience, if I were a buyer at International
24 Paper I looked at this slide, I would know
25 immediately that that is some kind of

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1 manufacturing plant in Nanjing and that DGS is
2 buying from them.

3 What it says on this slide is that
4 manufacturing site has 2,000 customers worldwide.

5 Q Where does it say this manufacturing site
6 has 2,000 customers worldwide? Where does it say
7 it on this slide?

8 A I --

9 MR. DALEY: Objection.

10 A It says it on the bottom so it's a review
11 of manufacturing capability at this particular
12 manufacturing site.

13 Q Where does it say those words on this
14 slide?

15 MR. DALEY: Objection, asked and answered.

16 A It doesn't have that title but these are
17 all the components. It's largest anti-foam
18 production base in China covers 15 acres. It's R
19 and D. It's raw material storage. It's anti-foam
20 manufacturing. It's you know how much they
21 produce per year and 2,000 customers they are
22 producing for.

23 Q This secret supplier the largest antifoam
24 production base in China provided on this slide,
25 do you think would you have heard of them before?

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1 MR. DALEY: Objection.

2 A Not necessarily if I wasn't working in
3 that -- in that sector, not necessarily.

4 There are millions of manufacturers in

5 China.

6 Q Did you rely on this material to come to
7 the conclusions in your expert report?

8 A Did I rely on this document --

9 Q Yes.

10 A -- that is what you asked?

11 Well, it was certainly part of information
12 that I reviewed.

13 Q That's the same document that came up at
14 footnote 14, right?

15 A Yes okay.

16 MR. TOWNSEND: We've been going a while,
17 so how we take ten. Everyone can stretch their
18 legs maybe we come back at round it up and say
19 12:00 Pacific, 3:00 Eastern.

20 Does that work for everyone?

21 THE WITNESS: Yes, okay.

22 (Off the record.)

23 BY MR. TOWNSEND:

24 Q Ms. Coates, I'm kind of paraphrasing here,
25 but did you testify previously that not all

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1 distributors provide the same level or time types
2 same types of services as each other?

3 A Correct.

4 Q Okay. And you also said that you did not
5 identify a distributor that provided the same
6 level of and types of services as DGS, right?

7 A Right, and that because distributors are
8 individuals. They provide different levels,
9 different kinds of services. They have different
10 employees. They are you know might have different
11 approaches. There is all sorts of differences.
12 I'm not sure there is exactly the same kind of
13 distributor available to compare.

14 Q The same question with Mid-South, you
15 didn't identify another distributor that provided
16 the same level of types of services as Mid-South?

17 A Correct.

18 Q Okay. So, if every single distributor has
19 a different level of service and type of service,
20 how do you know that DGS's markup was reasonable.
21 As you and I outlined in my report the starting
22 won't would be 8 to 10 percent markup, that's just
23 for providing basic answering the phone, order
24 processing, order fulfillment kind of services.

25 Then you would add additional percentage

1 points for additional kind of services that would
 2 be provided, and that's, you know, clearly context
 3 in terms to of chemical engineering. That's you
 4 know, the ability to read telemetry, to monitor
 5 what's going on to have consideration given to the
 6 environment based on chemical engineering
 7 background. It's, you know, coaching
 8 manufacturing/engineering. There result kind of
 9 additional services that DGS was providing to make
 10 that percentage higher than just the very floor
 11 baseline 8 to 10 percent?

12 Q So, how did you get from the baseline
 13 floor of 8 to 10 percent to opining that DGS's
 14 markup of 19 percent is reasonable?

15 A So, I opined that the reasonable
 16 percentage was 15 to 20 percent. Mr. Glasser
 17 showed a series of markups based on what DGS
 18 bought product for and had a they resold it for
 19 and he came up with 19 percent. That -- that
 20 different is 19 percent on average aggregated

21 across multiple purchase orders.

22 So, I said 15 to 20. He said 19. So I
23 think we're in alignment there.

24 Q Okay. But how did you get to 15 to 20
25 percent from 8 to 10 percent then?

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1 A So, this is based on my experience and the
2 kind of sort of sophisticated services that DGS
3 was providing, so beyond just ordinary order
4 processing and coordinating, they were providing
5 chemical engineering context, tell -- telemetry
6 monitoring, they were providing coaching
7 information to manufacturing/engineering, you
8 know, when you receive an order and try to
9 understand how at the going to be used there is
10 some interpretive knowledge there.

11 I mean, this is -- this is not, you know,
12 your average pass through sort of electronics
13 distributor that's going to sell connectors.

14 This is sophisticated background
15 information about usage and the -- in the
16 chemicals industry.

17 Q So --

18 A I was going to so it's way beyond the just
19 the 10 percent.

20 Q Did you try to quantify how much of the
21 tell meter services DGS provided as value to
22 International Paper?

23 MR. DALEY: Objection.

24 A No. My opinions sort of lumped all of the
25 additional chemical services together. And it

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1 falls within what I've seen over you know many,
2 many, many purchasing departments and purchasing
3 arrangements to be 15 to 20 percent when there's
4 expertise added to the ordinary baseline order
5 processing.

6 Q So did you try to quantify informant
7 value-added services that DGS or Mid-South
8 provided?

9 Q When you say quantify, you mean given a
10 specific calculation?

11 Q Yes. Did you try to put a dollar value on

12 the services they were providing?

13 A No.

14 Q So, if you don't know if DGS provided
15 telemetry services for every specialty chemical
16 that it sold to International Paper, how do you
17 know if the markup for that chemical was
18 reasonable?

19 A Well, I doubt they were providing
20 telemetry services to every single purchase. Some
21 of purchases were probably small, might not be
22 directly involved with manufacturing. They might
23 have purchased for example cleaning chemicals or
24 for cleaning the machines. Those won't require
25 telemetry.

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1 So I don't know how much or how little
2 they were provided. It's just one of the
3 additional services that I considered.

4 Q So, if you don't know if DGS was providing
5 any evaluate you added services for one of the
6 chemicals it was selling to International Paper,
7 how did you know that the markup for that chemical

8 was reasonable?

9 MR. DALEY: Objection.

10 A So, based on my -- my experience, in these
11 situations I bundled together what services I
12 understood they offered, which is chemical
13 engineering interpretation. It's site visits.
14 It's understanding the process. These are --
15 these are values and value-added services that are
16 given to International Paper in exchange for -- in
17 exchange for compensation. That's really what
18 this markup is, is compensation for the work that
19 DGS was providing.

20 Q Okay. So you say you bundle together what
21 you understood they offered.

22 Do you know that they offered these
23 value-added services?

24 A That's my understanding, that they offered
25 these services, yes.

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1 Q I'm not asking for your understanding. Do
2 you know that they provided these value-added

3 services.

4 MR. DALEY: Objection.

5 A Well, I only know information based on
6 what I read in the documents that I reviewed, and
7 from that information, yes. They offered these
8 kind of services.

9 Q Okay. So in the documents that you
10 reviewed, we will see proof that they provided a
11 services you testified today that they provided?

12 MR. DALEY: Objection.

13 A Well, certainly Mr. Allen commented on the
14 kind of services he was providing and hes with a
15 primary contact for International Paper and
16 understanding that this are chemical engineers in
17 the company that understand the context and use of
18 chemicals. That's -- that's a big value. I mean,
19 you know, it's not any ordinary person. It's not
20 you or I that could walk into a processing plant
21 that's using chemicals and know anything about it.
22 What to do or how much or you know, high, low, we
23 wouldn't know.

24 And so that expertise background and
25 experience is very valuable in a distributor



1 environment.

2 Q Who are the chemicals engineers at DGS?

3 A Well, I know for sure Mr. Allen. He had
4 an undergraduate and master's degree in chemical
5 engineering and I think Shiv also had at least an
6 undergraduate and I think two -- two master's
7 degrees.

8 Q Anyone else?

9 A I don't know.

10 Q You testified previously that Shiv, you
11 don't know what services Shiv provided, right?

12 MR. DALEY: Objection.

13 A Well, in a small company as running the
14 company I'm sure he had interactions regarding the
15 chemicals from time to time but I don't know
16 specifically what kind of services he added.

17 Q So you say you're sure, but you don't
18 know?

19 MR. DALEY: Objection.

20 A You felony, I think it's a reasonable
21 assumption and based on what I've seen in other
22 distributors when have you people running the
23 company with experience in an industry, it's big

24 value. It helps interpret all kinds of
25 procurement processes.

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1 And I think it's what that happened here,
2 too. We had -- or DGS had people with that kind
3 of background and experience, and that creates
4 value in a procurement environment.

5 Q Have you spoken to anyone from DGS or
6 Mid-South in this matter?

7 A No.

8 Q So your understanding is just limited to
9 the transcripts that you read earlier and the
10 documents in the attachment A, right?

11 A And the way I would interpret those
12 documents based on my education, background and
13 experience in procurement.

14 Q Besides Mark Allen, who else at DGS
15 provided value-added services to International
16 Paper?

17 A The whole company is a distributor, so as
18 a whole, you look at the company as a whole, and

19 every person that work there's or contributes to
20 the work that happens there, is providing
21 value-added services, so you would look at it as a
22 whole.

23 Q Okay. But --

24 A It's not like can you say one person part
25 of DGS doesn't add value. I mean that's not

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1 appropriate.

2 Q What value did Balsara provide to
3 International Paper?

4 A I just have a general understanding of her
5 participation I understand she placed orders,
6 coordinated orders, answered the phones, answered.

7 Q Besides Mark Allen and Balsara, who at DGS
8 was providing value to International Paper? Was
9 there any other names you could identify?

10 A Well, Shiv.

11 Q But didn't you just said you don't know
12 what services Shiv provided, right?

13 A No, I didn't say that. I said -- you have
14 to take in context. He's the CEO. He's running

15 the company. He's chemical engineer by training.
16 I'm sure there were -- there was context provided
17 that was helpful and added valid you.

18 Q Okay. So you're sure, that is what you
19 said, you're sure, that you testified under oath
20 that you're sure Shiv provided those services?

21 MR. DALEY: Objection.

22 A I'm sure he was the CEO, yes.

23 Q Okay. But you're sure that he provided
24 value-added services? You also said that, right?

25 MR. DALEY: Objection.

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1 A Yes, I think that is a reasonable
2 assumption and I could be sure of that assumption.
3 He's got chemical engineering background is, you
4 know, he's working in a chemical engineering
5 distributors ship obviously he has valid you to
6 add.

7 Q Do you understand when he was asked in
8 hire deposition what services did you provide to
9 International Paper, he answered that he was

10 exercising his right often the Fifth Amendment
11 because he didn't want to incriminate himself.

12 Do you understand that?

13 MR. DALEY: Objection.

14 A I did into the read that testimony so I
15 don't have an opinion about that.

16 Q Well, would that change your assumption
17 that you're so sure that Shiv provided value-added
18 services?

19 MR. DALEY: Objection.

20 A Probably not.

21 Q So, if Shiv Kumar pled the Fifth Amendment
22 to avoid incriminating himself when he was asked
23 what value-added services you provided to
24 International Paper, you would still assume that
25 he provided value-added services to International

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1 Paper?

2 MR. DALEY: Objection, asked and answered.
3 Compound, of the last two questions asked.

4 A I don't have any idea why he answered the
5 way he did.

6 Q Do you think he was afraid he would
7 incriminate himself?

8 MR. DALEY: Objection.

9 A I don't know.

10 Q So, you've expressed some confusion about
11 Mid-South. I think we would all agree. And to
12 paraphrase you, you said you understand that
13 Mid-South was really the same company as DGS, just
14 owned by the same people, but under a different
15 name, is that your understanding?

16 MR. DALEY: Objection.

17 Q Did I get that right?

18 MR. DALEY: Sorry, Nate, objection.

19 A First of all, I'm not confused. And
20 secondly, yeah, that's my understanding, yes.

21 Q Okay. Do you know who Jasmine Manichean
22 is?

23 A No.

24 Q Did that person work for Mid-South?

25 MR. DALEY: Objection.

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1 A I don't know.

2 Q Do you know Shay Rons Jane?

3 A No.

4 Q Do you know if that person worked for
5 Mid-South?

6 MR. DALEY: Objection.

7 A I don't know.

8 Q Do you understand that Jyotika Balsara
9 used the false name of Jasmine Manichean while
10 working at Mid-South?

11 MR. DALEY: Objection, the witness already
12 stated she doesn't know who that is.

13 A I don't know.

14 Q So, do you understand that Mid-South was
15 created to trick the majority suppliers so len is
16 into believing that so len is in was working with
17 someone other than Shiv?

18 MR. DALEY: Objection.

19 A I have no idea. That wasn't anything I
20 was asked to opine on, so I didn't do any research
21 in that area, and so I have no opinion, and no
22 knowledge.

23 Q But you have an opinion that Mid-South
24 provided valid you added services to International
25 Paper?

1 A I guess, I -- I suppose so. It's my
2 understanding it was the same company, so just a
3 different name and I don't know why that happened.
4 I don't know what the business profile or set up
5 was, I don't know how to answer that other than,
6 yeah, I mean, they are the same company providing
7 chemical engineering distribution chemical
8 distribution services and chemical engineering
9 services.

10 Q So your testimony is that someone under
11 the banner of Mid-South provided chemical
12 engineering services, that's what you are opining
13 today?

14 MR. DALEY: Objection.

15 A Yeah, that's not what I said. I think I
16 said they were the same companying and they were
17 providing distributor services.

18 Q And what are distributor services?

19 A Okay. As we have talked about several
20 times, so, a distributor processes orders, they
21 coordinate deliveries. They provide logistic

22 services. They and in this case, because we're
23 talking about chemical engineering, they provided
24 telemetry readings. They were on-site, and worked
25 with engineers to adjust machinery. They look at

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1 inventory levels so all these things were the kind
2 of services they provided in addition to order
3 processing.

4 Q So, again, your testimony that is someone
5 at Mid-South provided telemetry services, is that
6 what I'm hearing from you?

7 MR. DALEY: Objection.

8 A I don't know if those services were
9 provided under the moniker of Mid-South or DGS,
10 but, it's my understanding they were the one and
11 the same company so I'm not sure they made that
12 distinction.

13 Q Ms. Coates, can you go back to Exhibit 1
14 for me.

15 A Okay.

16 Q All right. And we're still on paragraph

17 32, which is on page 11, if you can flip back
18 there.

19 A I'm there, yes.

20 Q Okay. So I think you were going to
21 explain this previously, but we'll talk about it
22 now. There is a footnote 18 here, right?

23 A Yeah.

24 Q Okay. And this footnote was meant to
25 support the statement that these are the

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1 value-added services provided by DGS and
2 Mid-South, correct?

3 A Yes.

4 Q Okay. When we flip down to footnote 8 it
5 says add references to DGS/Mid-South value-added
6 services documents, right?

7 A Um-hmm.

8 Q So I understand well I'll just ask you:
9 Was that just an oversight on your part?

10 A Yeah, I didn't mean to submit it without
11 adding those references, so, yeah, it was just a
12 mistake.

13 Q Okay. And were those references going to
14 come from attachment A?

15 A Yes.

16 Q Okay.

17 A And then -- and then I would also mention
18 that in afterwards, I also received the testimony
19 of Mark Allen and Balsara, so, that would have
20 been part of reference, if I had seen those prior
21 to writing this report.

22 Q Okay. Now, your testimony, though, is
23 that the documents in attachment A would support
24 your opinion that DGS and Mid-South provided valid
25 you added services?

↑

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1 A Yes.

2 Q Okay.

3 MR. TOWNSEND: Kieran, can we go and put
4 in Exhibit 4A, which is title March 31, 2023
5 email, which is a typo.

6 (Marked for identification Exhibit 4A.)

7 Q Okay. It looks like it's coming up.

8 Ms. Coates, can you download and open that when
9 you get a chance?

10 Q Do you have that up Ms. Coates?

11 A It's loading. I think. It looks plank.

12 Q There's some text at the very top of it is
13 this it's a one-page document.

14 A Yeah, but it's just the header the rest is
15 blank. Let me try to download it again. Hold on.

16 MR. DALEY: I think to save some time, I
17 think the message header from sent to subject and
18 attachments. Nate, is that right?

19 A Yes, that's right.

20 MR. TOWNSEND: Yes, that's right.

21 A I have the header information.

22 Q Great. I think you got it then.

23 Ms. Coates, what is this document?

24 A I don't know.

25 Q Is this one of the documents you included

↑

1 under attachment A?

2 A Yeah, I would have look at it. It's some
3 kind of email header.

4 Q So why did you include it in attachment A
5 to support the opinion that DGS and Mid-South
6 provided value-added services, if you don't know
7 what it is?

8 A It's one of the documents that I reviewed
9 and so I included all of the reviewed documents
10 that were provided to me in my appendix.

11 Q Okay.

12 Q What specific documents from attachment A
13 did you mean to include in footnote 18?

14 A Oh, I don't know. I would have to go back
15 through and them look. I can't tell you off the
16 top of my head.

17 Q So you didn't have a summary somewhere of
18 what you meant to insert in footnote 18?

19 A Probably, yeah. I probably had it listed
20 somewhere just neglected to add it prior to
21 submission.

22 Q Okay. Can you just try to jib what those
23 documents were, based on your memory?

24 A You know I think I had some kind of
25 general opinions about how a distributor of



1 chemicals would operate in this end coo of
2 environment backed up by information that I read
3 in emails and/or other documents.

4 Q Okay. What, are those emails and or other
5 documents though? Can you describe what those
6 were?

7 A I cannot off the top of my head. Sorry.
8 I would have to go back and look through them and
9 try to remember.

10 Q Do you have an approximation of how many
11 there were?

12 A No.

13 Q Was it more than 10?

14 MR. DALEY: Objection.

15 A I don't know I don't remember but there
16 were a lot of documents that I went through,
17 probably 40 or 50, so, somewhere in this.
18 Somewhere between zero and 50.

19 Q So, wait your testimony is that you went
20 through between zero and 50 documents, is that
21 what you said?

22 A I can't remember exact count but yeah I
23 think there is probably 40 or 50, maybe more. I'm

24 looking at the appendix right now on my report.

25 And there is two and a half pages, three and a

↑

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1 half, maybe. So there is lots of documents

2 reviewed.

3 Q You read all of these documents, though,

4 right?

5 A Yes.

6 Q And do -- you think there is 50 but it

7 could be more, based on what's listed here in

8 attachment A?

9 A Are you asking how many documents I

10 reviewed?

11 Q Yeah. My previous question was not well

12 stated.

13 Do you know just how many documents you

14 read?

15 A Give me a minute.

16 MR. DALEY: Objection.

17 A Well, it looks like a quick summary here,

18 150, 160 documents were provided to me and I

19 reviewed. I don't know how many of them related

20 specifically to value-added services?

21 Q I was trying to get clarification when you
22 said 50. All right.

23 Ms. Coates, if you can pull your expert
24 report back up so we're back on Exhibit 1.

25 A Okay.

↑

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1 Q And go to page 12, paragraph 38.

2 A Okay.

3 Q All right. So there's a first sentence
4 there reads: Typical markup by distributors of
5 manufactured good is is 15 to 20 percent.

6 Right?

7 A Yes.

8 Q What is the basis for that opinion?

9 A 40 years of working in procurement and
10 global supply chains. I mean that's very typical
11 markup for anybody in a manufacturing -- any
12 distributor in a manufacturing environment.

13 Q Is it typical -- typical markup for a
14 distributor that's engaging in a conflict of

15 interest with its customer?

16 MR. DALEY: Objection.

17 A I -- I have no idea. That soups like it's
18 a legal question. I don't know.

19 Q Down -- I guess I'll call it subparagraph
20 I, which is in italics which it says: Distributor
21 markup is generally 20 percent but depending on
22 the industry, the markup could be as low 5 percent
23 or as high as 40 percent.

24 Did I get that right?

25 A Yes.

↑

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1 Q It appears that this is a quote from
2 footnote 21, is that correct, or am I wrong on
3 that?

4 A That's correct.

5 Q How did you locate the source of that
6 footnote 21?

7 A So, that was also Google search and it's
8 from a site called PROS.com and once again, my
9 experience I would firmly say based on my
10 experience, 15 to 20 percent is very average for a

11 manufacturing distributor of any kind and so, I
12 was looking for validation of that and did a
13 Google search and PROS.com came up.

14 Q What was the -- what were the words you
15 used when you performed your search?

16 A I don't remember.

17 Q Was it something like what is a
18 distributor markup?

19 MR. DALEY: Objection.

20 A It could be I -- you know this was a
21 couple months ago. I have no idea I used as a
22 search term.

23 Q Okay. And did you when you performed the
24 search, how many sources did you review that the
25 search returned?

↑

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1 A I don't remember.

2 Q Was the PROS.com article the first result
3 that Google returned?

4 A I don't know, probably not, but I don't
5 know for sure.

6 Q Okay.

7 MR. TOWNSEND: Kieran, if we can put in
8 6A, what is a distributor screenshot.

9 (Marked for identification Exhibit 5.)

10 Q Ms. Coates, let me know when have you
11 that up?

12 A Okay. So.

13 Q So --

14 A Wait a minute I don't it have yet.

15 Q I'm sorry, I thought that meant you were
16 good?

17 A Okay, I have it up.

18 Q So this is going to be Exhibit 5, and you
19 will see, Ms. Coates, in the search bar it says
20 what is a distributor markup, right?

21 A Yes.

22 Q And the first results on this screenshot
23 is the PROS.com article, right?

24 A Yes, but I don't use Bing so I would have
25 -- I would have accessed this via Google search.

↑

1 Q Okay. But it would be possible for

2 someone using Bing to locate same article you
3 located using a search like one in the search bar,
4 right?

5 MR. DALEY: Objection.

6 A I would assume so. I don't use Bing so I
7 can't tell you for sure, but, I would assume so.

8 Q Okay. So someone used Google and put in
9 what is a distributor markup, they would be able
10 to find in PROS.com article, right?

11 MR. DALEY: Objection.

12 A Probably, yes, I think that's I found it,
13 yes.

14 Q So, really, anyone with a search engine
15 could have pulled this article that's in your
16 report, right?

17 A Yes

18 (The court reporter asked for clarification.)

19 MR. DALEY: Objection.

20 THE WITNESS: Sorry, I keep talking over
21 you.

22 MR. DALEY: That is okay.

23 Q All right. We'll flip back quickly to
24 your report, Ms. Coates. And we're still on the
25 same page on Exhibit 1. On paragraph 38, subpart

1 II, it says: Typical resale is anywhere from 15
2 to 30 percent depending on the chemical.
3 Chemicals like N-Serve can be as much as 50
4 percent.

5 Did I read that correctly, Ms. Coates?

6 A Yes.

7 Q So, is N-Serve a chemical used by
8 International Paper?

9 A Oh, I don't know. I think this particular
10 quote is related to farm chemicals, so, but, you
11 know, I don't know if it's also used at IP.

12 Q And that quote is come from footnote 22 is
13 which down at bottom as a hyperlink to a new AG
14 talk, right?

15 A Yep. I would also add you can find
16 hundreds of documents in a search that will show
17 you the typical markup is 20 percent so I could
18 have used any document to validate my experience,
19 my own experience, that 20 -- 15 to 20 percent
20 markup is -- is very common in a distribution
21 environment.

22 Q So, are you saying that if I used Google
23 or Bing, I could locate hundreds of documents that
24 will all show that the typical distributor markup
25 is 20 percent?

↑

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1 A Yes.

2 Q So is this just like a universally
3 accepted fact throughout the entire distributor
4 world?

5 MR. DALEY: Objection.

6 A As I said several times, this is very
7 typical in -- in a distributor environment in
8 manufacturing. And I think you find there is lots
9 of evidence to point to that -- that fact in my
10 experience, that 15 to 20 percent is just common.
11 It's used over and over again, and that's
12 generally where a distributor ends up in terms of
13 pricing.

14 MR. TOWNSEND: Kieran, let's dump in what
15 labeled as Exhibit 7. It will be our Exhibit 6.

16 (Marked for identification Exhibit 6.)

17 MR. TOWNSEND: Into the chat, please.

18 Q Ms. Coates, I'm sure you know the drill by
19 now, if you could download and open that up,
20 please.

21 A Okay.

22 Q Ms. Coates, is this the document cited at
23 footnote 22 of your report?

24 A Maybe. I don't URL on there to validate
25 -- this is the one but it's possible.

↑

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1 Q Okay. Well, does it look familiar to you?

2 A Yes.

3 Q Who is 1sprayer?

4 A I don't know.

5 Q So, are you relying on the comment by
6 1sprayer on this document about what the typical
7 markup is in chemical distributing?

8 A No. I think -- no. I mean, these are
9 just all comments of common use. The validated
10 exactly what I was saying in my experience, that
11 the -- there's a wide range of markups and it
12 depends on the individual -- what's individual lid

13 negotiated in a purchase environment, so it can be
14 all over the place. In this case, 15 to 20
15 percent is pretty average for manufacturing
16 environment and I was looking specifically for
17 chemical resale. And, you know, that's pretty
18 much what says throughout this whole document, is,
19 you know, 15 to 20 percent is privilege average.

20 Q Why did you look specifically for chemical
21 resale?

22 A Because that's what DGS does.

23 Q Didn't you just testify that the average
24 over the entire world is 15 to 20 percent?

25 MR. DALEY: Objection.

↑

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1 A Yeah, in a manufacturing environment, yes,
2 and this is part of that manufacturing
3 environment, yes.

4 Q So why did you need to bother to make sure
5 a specific to chemicals if it doesn't matter what
6 manufacturing environment it's in?

7 A Well, I think, you know, this case is
8 about chemicals in a manufacturing -- used in

9 manufacturing. So it's relevant whether it's
10 chemicals or other distributors of manufactured
11 goods or raw materials. It's relevant and it's
12 also you know based on lots and lots and lots of
13 negotiating situations that I've been in with --
14 with purchasing departments.

15 Q So, you've been in a negotiation with a
16 purchasing department from a company that is
17 buying specialty chemicals?

18 A Yes, so, specialty chemicals are often
19 part of a manufacturing process, so, yes, I've
20 been in involved in multiple manufacturing
21 environments that use chemicals in their process.

22 Q That's not my -- that's not really what I
23 asked though. You have been involved in the
24 negotiation and purchase of specialty chemicals,
25 that is what I understand from you?

↑

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1 MR. DALEY: Objection.

2 A Yes, I can think of one stance and I'm
3 sure this are many mores since it's a common -- a

4 congressmen item to purchase by purchasing
5 departments, and I certainly worked dozens of
6 purchasing departments, so, one I particularly
7 remember Lumber Liquidators I worked on a
8 consulting project there, helping their purchasing
9 department. They buy all kinds of specialty
10 finishing products that I helped negotiate a
11 contract with.

12 Q And the contract was for specialty
13 commemorate chemicals?

14 A Yeah, small-used chemicals different kind
15 of finishes, yes.

16 Q Who were you working for at that time?

17 A Lumber Liquidators.

18 Q So you were on the buying side for Lumber
19 Liquidators?

20 A Yes.

21 Q Okay. Who else did you -- well let me
22 withdraw you mentioned dozens of other examples of
23 instances where you saw the purchase of specialty
24 chemicals.

25 Did I get that right or is that not right?

↑

1 A Yes, that's right.

2 Q Okay. So what -- what were the other
3 buyers of the specialty chemicals?

4 A Well, so, in a buying situation like that,
5 for a big company that's doing manufacturing, or
6 has similar services that their providing,
7 especially chemicals are one category of something
8 that would be purchased.

9 So in working and teaching these buyers
10 and purchase departments I came across a lot of
11 situations where they were buying specialty
12 chemicals. So, you know, I taught classes at
13 American airlines. I taught at FedEx. I taught
14 at Google. I taught at Freeman. Think make
15 displays for -- for conferences. You know, so all
16 of these companies buy chemicals as part of
17 manufacturing process or in case of FedEx or
18 American airlines they are buying chemicals for
19 their aircraft, for multiple purposes, cleaning
20 and so forth. So, yeah, I moon I was involved in
21 a lot of that negotiating.

22 Q You say you a taught classes. Is that the
23 same thing as negotiating the purchase in your
24 mind?

25 A Yeah, we used real live examples of

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1 negotiations that the buyers were involved with
2 and in case of American airlines they went
3 bankrupt about ten years ago and we re-negotiated
4 over 500 individual contracts that they had under
5 the bankruptcy so that they could get discounted
6 and so forth, so... all kinds of crazy stuff you
7 can imagine an airline needs, you know, and all
8 those contracts were re-negotiated.

9 Q Ms. Coates, if you could go back to you're
10 report, which is Exhibit 1, and turn to page 8 at
11 paragraph 25.

12 A Okay.

13 Q So, this prove reads: IP's policies for
14 supplier diversity program state that the purpose
15 of program was to promote the growth and
16 development of minority disabled and women-owned
17 businesses.

18 In addition, the policy states that IP
19 will source its goods and services requirements on

20 a competitive basis to retain the greatest value
21 in terms of quality, cost and service.

22 Did I get that right?

23 A Yes.

24 Q So if someone at International Paper
25 sourced its goods and services from a diversity

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1 supplier on a noncompetitive basis, that would be
2 a violation of this policy, right?

3 MR. DALEY: Objection.

4 A I guess. I'd have to examine the
5 particulars but, yeah, probably.

6 Q And if someone from International Paper
7 sourced goods and services from a diversity
8 supplier in the way that did not attain the
9 greatest value in terms of quality, cost and
10 service, that would be a violation of this policy,
11 right?

12 MR. DALEY: Objection.

13 A Yeah. I don't know how you would measure
14 the greatest -- the greatest value. That would be
15 tough. You would really have to dig into that to

16 determine what would be the greatest value, what
17 won be I mean, yeah, yes, in general that's what
18 you would -- you would look for is a diverse
19 supplier that provides value, the greatest value.

20 Q Okay. Let's flip down to the next page,
21 to paragraph 26. And it says: IP is a diversity
22 program was a business strategy. Business case
23 for the supplier diversity program included some
24 fact that some of IP's customers required
25 diversity spend reporting.

↑

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1 Now, Ms. Coates, what customers of
2 International Paper required diversity spend
3 reporting?

4 A Well, I think a couple are mentioned there
5 but the one that stands out to me is BASF and they
6 required annual reports.

7 Q Besides BASF, was there anyone else?

8 A Give me just a minute. Proctor & Gamble.

9 Q Besides BASF and Proctor & Gamble, was
10 there any other customer of International Paper

11 that required diversity spend reporting?

12 A Those are the only two I know of. I'm
13 sure there are more. There's a common requirement
14 of companies, big companies in particular, that
15 want to know how much diversity there is in their
16 supply base, so, yeah, it's common requirement.

17 Q Is a requirement that International Paper
18 report how much it spent with diversity suppliers
19 the same thing as requiring International Paper to
20 spend a certain dollar amount with diverse
21 suppliers?

22 A I guess it would determine on how they
23 negotiate with their customers, so, yeah, I mean
24 it's different if you have a specific dollar
25 target, it's different from just reporting the

↑

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1 total spend.

2 Q Did BASF require a specific dollar target
3 in diversity spend reporting I'm sorry let me
4 completely redraw that question.

5 Did BASF require a specific dollar target
6 from International Paper regarding International

7 Paper's spend on diversity suppliers?

8 A I don't know.

9 Q Did Proctor & Gamble require a specific
10 target of diversity spend from International
11 Paper?

12 A I don't know.

13 Q Is it possible for International Paper to
14 expect pocket its diverse suppliers to provide
15 value-added services while International Paper
16 also benefits from the goodwill of its customers
17 from retaining diverse suppliers?

18 MR. DALEY: Objection.

19 A I'm sorry, can you wry read that question?

20 Q Yeah. It's a tough one is it possible for
21 International Paper to expect one of its diverse
22 suppliers to provide value-added services while
23 also benefitting from the goodwill of its
24 customers from retaining that diverse supplier?

25 MR. DALEY: Objection.

↑

1 A Well, first of all, yes, I mean obtaining

2 goodwill from their customers is really important
3 when a customer is choosing who to source from
4 providing diversity is -- is certainly a waiting
5 factor, and a good thing. And then can they
6 ex-pocket value-added services from a diverse
7 supplier, if you're talking about value-added
8 services through a distributor, yeah, I mean I
9 think there is an expectation value-added services
10 are provided through you a distributor that's kind
11 of their main -- their main thing and their
12 reselling and providing services.

13 Value-added services from a direct
14 supplier without a distributor involved, may or
15 may not add value. I don't know, but it certainly
16 adds to the total diversity spend and therefore
17 has value to the buying company with respect to
18 their customers, so it has assume you to IP with
19 respect to say BASF.

20 Q Okay. So, IP could benefit from using a
21 diverse supplier by both obtaining customer
22 goodwill and obtaining the value-added services
23 from the diverse supplier, right?

24 A That's correct. And there are other
25 benefits also that are outlined by IP, goodwill in

1 the community, you know, economic effect that it
2 has on communities growth and development. I mean
3 it's just there are lots of benefits to choosing a
4 diverse supplier.

5 Q Okay. If you could flip down to page 10,
6 at paragraph 28.

7 A Okay.

8 Q It says: In addition several
9 International Paper's customers such as Proctor &
10 Gamble and BASF also required specific diversity
11 goals and programs.

12 My question is, what is a diversity goal
13 in this sentence?

14 A Since my understanding that International
15 Paper set specific goals for procurement, so that
16 they could find and place orders with diversity
17 suppliers, and that's what I was referring to.

18 Q But this sentence says that Proctor &
19 Gamble and BASF required this diversity goal, not
20 International Paper. Right?

21 A Yeah. So, the same thing on the customer
22 side, they probably have targeted goals that they

23 are trying to meet so they are looking for a
24 customers that can provide diversity either
25 directly or in Tier II supplier so in that

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1 scenario, DGS would be considered a Tier II
2 supplier.

3 Q So, you just testified previously that you
4 don't know if BASF and Proctor & Gamble required
5 specific spend targets on diversity suppliers,
6 right?

7 MR. DALEY: Object.

8 A Right, I don't know.

9 Q So you don't know if Proctor & Gamble and
10 BASF required International Paper to hit a
11 specific spend target on diversity spend, right?

12 A I don't know if they required that or not
13 I. I just know they required reporting.

14 Q So the words here -- I'm just trying to
15 get an understanding. The words diversity goals
16 and programs here is just diversity spend
17 reporting, is that what you meant to convey in

18 paragraph 28?

19 A It's not just the reporting. A goal is a
20 target, so they are probably reporting against a
21 target of some kind or another. I don't know
22 whether you notation know whether it's percentage
23 or a dollar amount or a general statement bit, I'm
24 not sure.

25 Q Society says BASF required a specific

↑

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1 diversity goal, right?

2 A Yes.

3 Q And you just said that goal is a target,
4 there is a what I just heard?

5 A That's what a goal is, yes.

6 Q But you've also just testified that you
7 don't know if BASF required a diversity spend
8 target, right?

9 A I don't know if they provided -- or if
10 they required a specific dollar amount or
11 percentage. They obviously required reporting
12 against it. They have a goal of reporting against
13 it but whether or not that's tied to a specific

14 dollar amount, I don't know.

15 Q How do you know they required?

16 A It's footnoted in 16, it's a document that
17 talks about the requirements of BASF.

18 Q Okay. So, if we go down to footnote 16,
19 that's going to support your statement that BASF
20 required a reporting on diversity spend?

21 A Yes.

22 Q Okay. And it also says to finish out this
23 sentence, IP's customer BASF required IP to report
24 on diversity spend every year.

25 Is that right?

↑

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1 A Yes.

2 Q So that footnote is going to support the
3 fact that BASF required diversity spend every
4 year, right?

5 A Yes, it's annual reporting I believe is
6 what I read, yes.

7 Q Okay. Do you know what time frame you had
8 in mind when you said every year? Like how many

9 years?

10 A I don't know.

11 Q Then it did it start in 2011?

12 MR. DALEY: Objection.

13 A I don't know.

14 Q Did it start in 2018?

15 MR. DALEY: Objection.

16 A I don't know what year it started.

17 Q Okay.

18 MR. TOWNSEND: Kieran, let's say pull up
19 what I've labeled as Exhibit 2, September 4th,
20 2019, email and we will mark this as Exhibit 8, I
21 think, if that's right.

22 A/V TECHNICIAN: This one would be 7 if
23 you would like I can just let you know what we're
24 marking as I drop that in the chat.

25 MR. TOWNSEND: Fantastic, if you can

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1 handle that I would appreciate it that thanks.

2 A/V TECHNICIAN: So this is Exhibit 7.

3 (Marked for identification Exhibit 7.)

4 Q Ms. Coates --

5 A -- am I looking at something called

6 Exhibit 2?

7 Q That's right. It's labeled that way?

8 A That's the title?

9 Q Yep. Just let me know when have you it
10 open?

11 A I have it open, yes.

12 Q All right. Ms. Coates, do you see the
13 date of first e-mail is September 24th, 2019?

14 A Yeah.

15 Q So is this email chain and feel free to
16 look through the whole thing but is this email
17 chain coming from the fall of 2019?

18 A Yes. Let me have a look at it, please.

19 Q Of course. Just let me know, Ms. Coates,
20 when you're done but take your time.

21 A Okay.

22 Q So, were all these emails sent in the fall
23 of 2019?

24 A Yes.

25 Q Okay. And you're using this document to

↑

1 support your opinion that BASF required
2 International Paper to report its diverse spend
3 for every year --

4 A I just want to make sure that is the --
5 that's the right Bates number on my report too.

6 One second. I think that is. I see 1227
7 oh, yeah, yeah. This is the same document.

8 Q Okay. So, where on this document did
9 someone from BASF requiring International Paper to
10 report the diversity spend?

11 A I think the very last component, on
12 Thursday, July 18th, from BASF.

13 Q So this is --

14 A Yeah. It says: Answer the following
15 questions. State if you're working with diverse
16 suppliers. Giving the categories.

17 And then further up at the top they talk
18 about reporting quarterly.

19 Q Let's unpack that for a second. So you're
20 saying the first email from Rualess on July 18th,
21 2019, this email supports your assertion that BASF
22 required International Paper to report its
23 diversity spend?

24 A Well, they are asking for them to answer

25 questions first of all, about diversity.

↑

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1 Q Is that the same thing as reporting
2 diversity spend as you asserted in your report?

3 MR. DALEY: Objection.

4 A I didn't -- yeah, you can see that at very
5 top, or they say, we can add them to Q3 reporting.
6 It's implied. Their asking questions about the
7 diversity program and then response from
8 International Paper is we didn't -- we will add
9 you. We didn't have you added on to the reporting
10 list but we'll add you.

11 Q So it's implied, is that's your testimony?

12 MR. DALEY: Objection.

13 A In this particular document, yes.

14 Q Okay. Do you have any other documents
15 besides this one to support your assertion in your
16 report that BASF required diversity spend
17 (coughing) International Paper?

18 A I think there was presentation made
19 internally at IP that talks to this and talks
20 about required reports by customers. I don't know

21 what the name of that -- or the Bates number is on
22 that document but it was internal presentation.

23 Oh, I think it's JAG.INS00143193. That's
24 a diversity presentation.

25 Q That diversity presentation is going to

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1 have BASF as one of the customers listed?

2 A I don't know if it says BASF, but I think
3 it speaks to the reasons why they have a diversity
4 program and that customers are asking for this
5 information.

6 Q Okay. Let's flip back to Exhibit 1, which
7 is your report. We are going to be page 10 at
8 paragraph 29.

9 A Okay.

10 Q So, did you see any documents where the
11 spend International Paper made on DGS was reported
12 to an International Paper customer?

13 A I'm not sure they were identified by name.
14 I think the reporting was aggregation of what the
15 spend was.

16 Q The last sentence on paragraph 29 says:
17 Without a successful diversity program any IP
18 customer with diversity spend requirements may
19 have withdrawn their business causing a
20 significant loss of revenue for International
21 Paper.

22 So, my question is, is the phrase
23 "diversity spend requirements" the same as
24 "diversity spend reporting"?

25 A Will, no. They are certainly related

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1 reporting is related to the requirement but, no,
2 it's not exactly the same thing.

3 Q Okay. Well what is diversity spend
4 requirements?

5 A It may be internally there are spend
6 requirement targets that were initiated by the
7 diversity group inside of IP that I read about.
8 And then a customer may also require a certain
9 percentage. I didn't have access that information
10 but it's not uncommon. I've certainly seen that
11 before where customers require a you know a 10

12 percent diversity spend or greater, that's pretty
13 common.

14 Q Okay. But you don't know of an
15 International Paper customer who required a
16 diversity spend requirement, right?

17 MR. DALEY: Objection.

18 A I didn't see any documents outlying a
19 specific dollar amount but certainly that they
20 were looking for reporting.

21 Q So it's just reporting that they were
22 looking for that you saw?

23 A I don't know if it was just reporting like
24 I say I didn't look at any documents that would
25 out Lionel the specific program. Just that they

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1 was reporting going on and a requirement to
2 report.

3 Whether there were targets or -- I don't
4 know but it won surprise me a diversity program
5 are getting more sophisticated requiring more and
6 more spend in these categories, and I think

7 because there are lots of benefits related to
8 diversity spending.

9 Q Did any International Paper customer
10 withdraw its business from International Paper due
11 to International Paper's failure to report its
12 diversity spend?

13 A Did they withdraw, is that what you asked?

14 Q Yes.

15 A I don't know did.

16 Q Did any customer of International Paper
17 say that they would withdraw their business if
18 International Paper did not report its diversity
19 spend?

20 A I don't know.

21 Q So your sentence here where you say any IP
22 customer with diversity spend requirements may
23 have withdrawn their business causing a
24 significant loss of revenue for International
25 Paper is based on speculation, corrects?

↑

1 MR. DALEY: Objection.

2 A Not on speculation. It's based on my

3 experience when you're evaluating potential
4 suppliers you look at all kinds of attributes of
5 that supplier. So would you look at price and
6 delivery for example. Would you look at
7 reputation. You would look at references. Would
8 you like at diversity spending. And if your
9 comparing side by side, say, International Paper
10 to some other provider, and International Paper
11 has a diversity program, and spending targets, and
12 so forth, that might be what tips the balance in
13 making a decision to buy from them.

14 Or to buy from another supplier
15 competitive supplier, and take bays away from IP
16 because of a diversity program.

17 So, yeah I think it's very important in
18 making those decisions and certainly important to
19 the customers.

20 Q Ms. Coates, flip down your report, which
21 is Exhibit 1, to page 13, at paragraph 44.

22 A Okay.

23 Q Can you tell me what A1 Ton pricing is?

24 A So, A1 Ton pricing is a pricing
25 methodology based on forecast, so a company may

1 say we think we're going to use a 100 tons of
2 something, some chemical, and the pricing is based
3 po that particular forecast, and payments are made
4 based on that amount that's forecasted.

5 Then if less is used you're still paying
6 that full amount. If more is used you still pay
7 that amount.

8 So the distributor assumes risk whether
9 it's higher or lower. If the user is lower they
10 make more money if it's higher they make less
11 money or no money. They may even generate a loss
12 as a result of that. So that's the kind of
13 pricing that negotiated that should be favorable
14 to the buyer.

15 Q Does A1 Ton have any other name that you
16 know of?

17 A I'm trying to think what else I've seen.
18 I have seen A1 Ton before but there's a lot of
19 kind of generic labors for it forecasted pricing
20 annual standard pricing. There are lots of
21 different kind of descriptive names.

22 Q Did you ever see an example of something

23 like A1 Ton pricing being called cost per ton?

24 A Cost per ton?

25 Q Yes.

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1 A Yeah, I mean that's -- that's one way of
2 looking at price but in A1 Ton it's based on a
3 forecast so a firm amount that's forecasted.

4 Q Do you know the two basic methods of
5 pricing that International Paper used?

6 A I don't know if they had, you know,
7 primary approach but yeah, A1 Ton pricing is
8 common approach.

9 You can use term pricing so it's the same
10 price over a period of time. That happens.

11 It could be individual negotiations. So
12 chemicals that are not used very often are not
13 going to be A1 Ton pricing. If their all used one
14 every three years things like that you would have
15 an individual bias buy so it just depends on the
16 situation and product that you're buying.

17 Q Okay. Do you know the two names of the
18 types of pricing that International Paper

19 specifically used?

20 A The names that they used?

21 Q Yes.

22 A I don't know if I called that out in my
23 report or not. Let me look through the pages
24 here.

25 I think that one other term that they used

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1 also. Bone dry ton pricing --

2 Q Okay.

3 A -- and which is price for the term,
4 that's, I mentioned before, it's a long-term
5 pricing or annual pricing, that kind of thing.

6 Q Wait.

7 A Yeah.

8 Q Your testimony that is bone dry ton is
9 cost per term, that is way I'd heard?

10 A Yeah, it's usually, or an approach where
11 the pricing is negotiated for one year so, it's
12 standard pricing for example for a year or two
13 years or three years. And A1 Ton pricing is based

14 on a forecast usage. There are all kinds of
15 schemes that they might use depending on what the
16 needs are in the manufacturing side.

17 Q Okay. So, bone dry ton is different from
18 A1 Ton is that what I'm hearing.

19 A Yes, A1 Ton is based on a forecast. Bone
20 dry ton is based on a time frame.

21 Q Okay. Are you familiar with the term
22 "cost per pound"? Have you seen that?

23 A Sure, yes.

24 Q Is that the same as bone dry ton?

25 A No. Cost per pound is just how much it

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1 cost per pound if you're buying something. Even
2 you buy a cost per pound at grocery store, if your
3 buying orange s for example it's a cost per pound.

4 Bone dry is a negotiated price over a
5 period of time.

6 Q Okay. When you say here in your report
7 that A1 Ton pricing methodology entails
8 determining a forecasted usage in pricing based on
9 that forecast -- --

10 A Right.

11 Q -- who is doing the forecast?

12 A Well, normally that's the can't because
13 this forecast is based on projected sales. So.

14 Q Okay.

15 A IP is talking to their salespeople what do
16 you think you can sell and that translates into
17 what they are going to make and forecasts the raw
18 materials that are needed to make that product?

19 Q If could you flip down to page 14 at
20 paragraph 45. It said: Managing an A1 Ton
21 pricing arrangement is challenging. It requires
22 constant monitoring of the manufacturing processes
23 and suggested adjustments in formulas and
24 processes to optimize usage.

25 And then you say: DGS was well suited

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1 trained and educated to do this.

2 So is it your testimony that DGS did
3 require -- did perform contact monitoring of
4 manufacturing process?

5 MR. DALEY: Objection.

6 A It's my understanding they did have A1 Ton
7 pricing in a couple of instances and in order to
8 avoid or minimize their risk, DGS's risk, they
9 would want to monitor that to make sure that the
10 forecasted amount, used was accurate or less than
11 that was forecasted because that -- that's tied to
12 their profit margin. If it's more than
13 forecasted, then DGS would either have a reduction
14 in their margin or lose money on the deal.

15 Q So --

16 A -- important that they monitor that usage
17 for sure.

18 Q Did someone at DGS suggest adjustments
19 in formulas and process to optimize usage?

20 A I don't know.

21 Q But it's your testimony that DGS was
22 bearing the risk under the A1 Ton arrangement?

23 A Yes, the distributor assumes the risk
24 position, yes.

25 Q So the manufacturers were not assuming the

↑

1 risk is that your testimony?

2 MR. DALEY: Objection.

3 A The purchase orders with DGS, not with the
4 manufacturers.

5 If they -- if DGS then had a contract with
6 the manufacturer, then that might be A1 Ton
7 pricing also so there may be some -- some
8 negotiation there, but in this context we're
9 talking about the purchasing process between IP
10 and DGS.

11 Q But the manufacturers of a specialty
12 chemicals that DGS sold to International Paper did
13 not bear the risk under the A1 Ton model, that is
14 what you're saying?

15 A I'm sorry, repeat that question.

16 Q The manufacturers of the specialty
17 chemicals that DGS sold to International Paper did
18 not bear the risk when A1 Ton pricing was used, is
19 that what your testimony is?

20 MR. DALEY: Objection, sorry, Nate.

21 A When talking about the transaction
22 between IP and DGS, that's correct.

23 Q Okay. But what about the transaction
24 between DGS and the manufacturers?

25 A It depends on the terms. Yeah, I mean



1 there is risk involved there as well.

2 Q So was --

3 A But that's not part of the purchase
4 agreement between DGS and IP.

5 Q Okay. But DGS could pass on the risk with
6 its contract with the manufacturer, right?

7 A Well, that's -- that's now how I would put
8 it. I think that's not right way to define it.
9 Each transaction is independent so it's not a
10 matter of passing on risk to somebody else. They
11 would negotiate some other kind of terms with the
12 manufacturer. They are two separate, distinct
13 purchase processes.

14 Q Did DGS negotiate other terms with the
15 manufacturers such that the manufacturers would
16 bear risk under the A1 Ton pricing scenario?

17 A I don't know.

18 Q Did the manufacturer did bare the risk
19 that would mean that DGS is not bearing the risk,
20 right?

21 MR. DALEY: Objection.

22 A Once again, I don't think that's the --
23 that's not the right way to think about it. These
24 are two separate purchasing transactions. So you
25 can't just pass off the risk to somebody else.

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1 It's a transaction between IP and DGS, and A1 Ton
2 pricing arrangement, DGS assumes the risk, period.

3 Q DGS is not capable of transferring that
4 risk, they can't physically do it somehow?

5 MR. DALEY: Objection.

6 A I don't know. I have no way of knowing
7 that. If I mean that's sort of a cavalier
8 attitude about it. I think we need to look at it
9 as a transact between IP and DGS.

10 Q So we should completely disregard the
11 manufacturer?

12 MR. DALEY: Objection.

13 A Of course you can't ever disregard the
14 manufacturer. That's who's producing the goods
15 but that transaction between DGS and the
16 manufacturer is completely separate, and has its

17 own risk and -- and details and terms, and so
18 forth.

19 Can we take another break?

20 MR. TOWNSEND: Sure. Let's come back in
21 ten if that works.

22 THE WITNESS: Yeah.

23 (Off the record.)

24 MR. TOWNSEND: Kieran, I uploaded just new
25 one more exhibit to the file. It's labeled Marcus

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1 Vance affidavit. Could you put that in the chat.

2 A/V TECHNICIAN: Yes, give me just a
3 moment to get it downloaded.

4 MR. TOWNSEND: Sure.

5 A/V TECHNICIAN: It's in the chat and this
6 will be Exhibit 8.

7 (Marked for identification Exhibit 8.)

8 Q Ms. Coates, I'm sure you know by now, if
9 you could download and open up and let me know
10 when you have that up.

11 A Okay.

12 Q Okay. Have you seen this document before?

13 A No.

14 Q So your lawyers did not provide the

15 affidavit of special agent Marcus T. Vance to you?

16 MR. DALEY: Objection.

17 A I don't think so. I'm checking my file

18 here. 1606 on 30. I don't think so. I don't

19 recall seeing it anyway.

20 Q Okay. Do you understand that Shiv and Jag

21 are half-brothers?

22 A That's my understanding, yes.

23 Q Does the fact that -- let me back up.

24 Do you know who Jag is?

25 A He was a buyer at.

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1 BY MR. DALEY:

2 Q Okay. Can you tell me any more that you

3 know about Jag?

4 A Just that he was a chemicals buyer. Been

5 there for 30 years. That's bit. I don't know

6 really any more than that.

7 Q Did he purchase competition specialty

8 chemicals from DGS for Mid-South?

9 A Yes, I believe so.

10 Q And does the fact that Jag was purchasing
11 chemicals specialty chemicals from his
12 half-brother's company affect your opinion as to
13 whether DGS and Mid-South engaged in legitimate
14 arm's length transactions with International
15 Paper?

16 MR. DALEY: Objection.

17 A That was out of the scope I was asked to
18 look at and I don't have an opinion.

19 Q Does the fact that Jag purchased specialty
20 chemicals from its brothers companies affect your
21 opinion as to whether DGS and Mid-South provided
22 value-added services to International Paper?

23 A Well, again, that's out of scope, but, you
24 know, the value-added services provided by DGS are
25 well documented, and I think standalone, so I

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1 don't know. I don't -- I don't think any of that
2 knowledge would affect my opinion in any way.

3 Q Would you agree that Jag as the buyer of
4 the specialty chemicals would be the person --
5 that would be the person at International Paper
6 who would know whether or not DGS and Mid-South
7 provided services to International Paper?

8 MR. DALEY: Objection.

9 A I think in general in a purchasing
10 environment, yeah, the buyer is generally aware of
11 what services are being provided but they're being
12 provided to the shop floor, essentially, you know,
13 the people that are requiring and requesting the
14 raw materials the day-to-day operations, the
15 operational people, not -- not the buyer per se,
16 so buyer's probably aware but not involved in the
17 daze to day manufacturing operations.

18 Q So, was Jag aware of the value-added
19 services that DGS and Mid-South provided?

20 MR. DALEY: Objection.

21 A I have no way of knowing what he was or
22 wasn't aware of.

23 Q He was, as you testified, the buyer of the
24 specialty chemicals for DGS and Mid-South, right?

25 A Correct.



1 Q Okay. On this document you see at the top
2 it's labeled as affidavit of Special Agent Marcus
3 T. Vance, do you see that?

4 A Yes.

5 Q And underneath it is I, Marcus T. Vance
6 first being duly sworn and hereby do state as
7 follows...

8 Do you see that?

9 A Yes.

10 Q So Mr. Vance is providing these statements
11 under oath, right?

12 A That's what looks like, yes.

13 Q It says in paragraph 1, that is he is a
14 special agent with the Federal Bureau of
15 Investigation; is that right?

16 A Yes.

17 Q If you scroll down to page 3 on paragraph
18 11, let me know when you're there?

19 A Okay.

20 Q It says here that Jagannath stated that
21 neither DGS nor Mid-South provided any benefit to
22 IP or any other vendors right?

23 MR. DALEY: Objection, hearsay within

24 hearsay proceeding and paragraphs both appear to
25 contain statements from IP rather than statements

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1 directly from any witness. Unclear what the
2 provenance of the statement contain within
3 paragraph 11 would be.

4 Q Did I read that right, Ms. Coates?

5 A You read it right and I don't have any
6 opinion about it.

7 Q So the fact that the buyer of specialtive
8 chemicals from DGS and Mid-South saying that DGS
9 and Mid-South do not provide any benefit to IP
10 doesn't affect your opinion, is that what I'm
11 understanding?

12 MR. DALEY: Objection, misstates the
13 evidence. The exhibit is the statement of special
14 agent that refers to an unclear, vague statement
15 made potentially by Jagannath or IP.

16 You can answer.

17 A Yeah, gene what the context of this is,
18 about you the evidence that I examined clearly

19 shows that DGS provided value-added services.

20 Q Okay. So your testimony is that the
21 evidence you examined clearly shows that DGS
22 provided value-added services?

23 A Yes.

24 Q Okay. And your opinion that DGS and
25 Mid-South provided value-added services does not

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1 change even though you now know that Shiv Kumar
2 has pled the Fifth Amendment when asked what
3 value-added services DGS and Mid-South provided
4 and his brother, who was purchasing those
5 chemicals has stated that DGS and Mid-South did
6 not provide any benefit -- is that right?

7 MR. DALEY: Objection. Sorry, Nate.
8 Objection, already asked and answered repeat times
9 the second half the question was just asked
10 Rosemary you can answer.

11 A I have no way of evaluating the context of
12 what you just showed me or what you just told me.
13 So, it would not affect my opinion either way it's
14 what I looked at what the evidence that was made

15 available to me shows that DGS did in fact provide
16 value-added services through not only order
17 processing but evaluating requirements, reading
18 telemetry, visiting the plant, these are all
19 value-added services.

20 (Indiscernible crosstalk.)

21 Q Who visited the plants?

22 MR. DALEY: Objection

23 (The court reporter asked for clarification.)

24 A Mark Allen.

25 Q Who else?

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1 A I don't know if there were others.

2 Q So it's just one person, then, right?

3 MR. DALEY: Objection.

4 A The evidence I reviewed and the testimony
5 from Mark Allen is that he visited the plants
6 whether or not there were others I don't know.

7 Q What plants did he visit?

8 A I -- I don't know off the top of my head.
9 I think he mentioned South Carolina and maybe

10 Mississippi. I'm not sure.

11 Q What did he do when he visited the plants?

12 A He talked about helping with adjustments
13 because that had been his previous job at IP so he
14 helped the manufacturing engineers with
15 adjustments and I don't know what else he reviewed
16 while he was there, you know observing how they
17 are using the product is important information.

18 Q So, if we pull up Mark Allen's transcript
19 and review it page by page we will find a sentence
20 where he says I helped with adjustments at a
21 International Paper mill, is that what your
22 testimony is?

23 MR. DALEY: Objection.

24 A I don't know if it were those words but he
25 does describe having visited at least one plant,

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1 yes.

2 Q Understand I describes visiting the plant
3 but what he does describe he did at the plant?

4 A I think he said he talked to or general
5 talks to the people that are making software

6 adjustments to -- in the manufacturing
7 environment, you're also making adjustments to the
8 machines or the software that drives the machines
9 and those adjustments are made to add more or less
10 chemicals or different part of the process, and he
11 refers to that -- that was his job essentially
12 when he was at IP.

13 So he refers to interfacing with the
14 people that are doing it later on, and he has a
15 representative GDS helping them.

16 Q Okay. So he's talking to the people who
17 make adjustments in of the software machinery.

18 What did he tell them?

19 Was he telling them to it better?

20 What was he doing?

21 A I have no idea. I'm -- you know, I don't
22 specifically what that conversation was. And I
23 don't -- I don't think it was reported.

24 Q -- report Mark Allen?

25 A I'm sorry?

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1 Q It wasn't reported by Mark Allen?

2 A I don't remember reading it in his
3 testimony but, you know, obviously, he was
4 interfacing with these people, so he was working
5 on something with them.

6 Q He was working with on something with them
7 is that your testimony?

8 A Well, he's working on some kind of process
9 change or improvement or you know approach, or
10 what that ever with the manufacturing/engineering
11 team and the software people running the machines.

12 Q So, what was the process change that he
13 was working on?

14 A Specifically I don't know.

15 Q Your testimony is that he was working on a
16 process change?

17 A That was his testimony, yes.

18 Q Okay.

19 (Indiscernible crosstalk.)

20 MR. DALEY: Objection.

21 A Yes, I think there is referral to in the
22 transcript, yes.

23 MR. TOWNSEND: Okay. So, we're done with
24 questions. I do want to make one statement
25 though. The witness specified that there were

1 documents that she meant to include in footnote 18
2 but she could not recall the identity of those
3 documents and they were not present so we are
4 requesting that the witness provide the documents
5 from attachment A that support footnote 18 and
6 once she has done so, we do reserve the right to
7 recall the witness after we receive that statement
8 to depose her on the amended footnote. But
9 otherwise, we have no further questions.

10 MR. DALEY: We'll take that under
11 advisement, Nate. No questions from Beazley.

12 MR. TOWNSEND: Okay. Then I think we're
13 done Karen, Kieran, and Ms. Coates, so we can go
14 off the record.

15 (Off the record.)

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